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No. 85. 1911.

BILL

An Act respecting the Support of Illegitimate Children.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Illegitimate Children's Act.* Short title.

2.—(1) Any person who furnishes food, clothing, lodging or other necessaries, to any child born out of lawful wedlock, may maintain an action for the value thereof against the father of the child, if the child was a minor at the time the necessaries were furnished, and was not then residing with and maintained by his reputed father as a member of his family. R.S.O. 1897, c, 169, s. 1. The father of an illegitimate child liable for necessaries.

(2) Where the person suing for the value of the necessaries is the mother of the child, or a person to whom the mother has become accountable for the necessaries, the plaintiff shall not be entitled to recover unless the fact of the defendant being the father is proved by other testimony than that of the mother, or her testimony is corroborated by some other material evidence of that fact. R.S.O. 189 , c. 169, s. 2. *Amended.* When other testimony than that of the mother requisite.

3. No action shall be sustained under the preceding section, unless it is shown upon the trial thereof that while the mother of the child was pregnant with, or within six months after the birth of the child, she had voluntarily made an affidavit before a Justice of the Peace for the county, district or city in which she then resided, declaring that the person afterwards charged in the action is really the father of the child, nor unless such affidavit was deposited within that time, in the office of the Clerk of the Peace of the county or district, or of the clerk of the council of the city. R.S.O. 1897, c. 169, s. 3. No action maintainable unless the mother makes affidavit before the birth of the child or within six months after.

Such affidavit not to be evidence.

4. The affidavit shall not be evidence of the fact of the defendant being the father of the child. R.S.O. 1897, c. 169, s. 4.

Other remedies not to be affected.

5. This Act shall not take away or abridge any right of action or remedy which, without this Act, might have been maintained against the father of an illegitimate child. R.S.O. 1897, c. 169, s. 5.

Repeal.

6. Chapter 169 of the Revised Statutes, 1897, is repealed.

No. 85.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Support of Illegitimate Children.

First Reading.

Mr. LUCAS.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 86. 1911.

BILL

An Act respecting the Study of Anatomy.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
INSPECTORS OF ANATOMY—APPOINTMENT, DUTIES AND FEES, ss. 3, 8.
WHAT BODIES MAY BE DELIVERED FOR DISSECTION AND TO WHOM, s. 4.
DUTY TO INTER BODY, s. 5.
TO WHOM BODIES TO BE DELIVERED, s. 6.
BODY MAY BE CLAIMED BY FRIENDS, s. 7.
DUTIES OF LOCAL INSPECTOR, s. 8.
NOTICE TO BE GIVEN BY INSPECTOR OF HIS APPOINTMENT TO CERTAIN PERSONS, s. 9.
NOTICE TO INSPECTOR BY CORONER, ETC. ss. 10-13.
REGISTER TO BE KEPT BY SUPERINTENDENTS OF PUBLIC INSTITUTIONS, s. 13, (2).
SECURITY TO BE GIVEN BY MEDICAL SCHOOLS, s. 14.
PENALTIES:
Neglect of duty by inspectors, etc., s. 15.
Removal of bodies from Province, s. 16.
Recovery of, s. 17.
BURIALS BY MUNICIPALITIES, s. 18.
REPEAL, s. 19.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Anatomy Act.* R.S.O. 1897, c. 177, s. 1. Short title.

2. In this Act, Interpretation.

"Medical School" shall mean and include the Faculties of Medicine of the University of Toronto, of Queen's University and of the Western University, the Hamilton School of Anatomy and any other institution which the Lieutenant-Governor in Council may declare to be a medical school. (*New.*) "Medical School."

3. The Lieutenant-Governor in Council may appoint a General Inspector of Anatomy for the Province and local Inspectors for such places as may be deemed advisable and may make regulations defining the duties of the General Inspector and imposing duties on the local Inspectors in addition to the duties imposed by this Act and otherwise for carry- General and Local Inspectors of Anatomy.

ing out the provisions of this Act, and may fix the fees to be received by the General Inspector and local Inspectors for services performed under this Act and under such regulations. 10 Edw. VII. c. 26, s. 40.

Disposal of certain bodies for study of anatomy.

4.—(1) The body of any dead person found publicly exposed or sent to a public morgue, upon which a coroner after having viewed it shall deem an inquest unnecessary or of any person who immediately before death was supported in and by any public institution shall be immediately placed under the control of the local Inspector of Anatomy for the locality.

(2) Unless such body within twenty-four hours after being so found or sent to a public morgue or after death where the death takes place in a public institution is claimed by

(*a*) A relative or a *bona fide* friend, or

(*b*) A person who produces an order made under subsection 3 and pays $5 to defray the funeral expenses, or

(*c*) In the case of the body of a person who was supported in a county House of Refuge, by a county councillor,

the same shall be delivered by the local Inspector to some person qualified as hereinafter provided.

(3) An order, Form 1, may be obtained from the Police Magistrate or where there is no Police Magistrate from a Justice of the Peace having jurisdiction in the locality.

(4) This section shall not apply to the body of a lunatic who has died in a Provincial Lunatic Asylum. R.S.O. 1897, c. 177, s. 2; 62 V. (2) c. 11, s. 37 (2); 4 Edw. VII. c. 10, s. 41. *Amended.*

Duty to inter body delivered to relative or friend.

5.—(1) It shall be the duty of the relative or friend to whom a dead body is delivered under the provisions of section 3 to cause it to be decently interred or he may upon payment to them of $5 require the authorities under whose care the dead body was to inter it. *New.*

(2) A dead body delivered to a county councillor shall be decently interred at the expense of the county. *New.*

To whom unclaimed bodies shall be delivered.

6. The persons qualified to receive such unclaimed bodies shall be the teachers of anatomy or surgery in a medical

school; and if there is any medical school in the locality where there is a body to be delivered to persons so qualified, such school shall have the first claim to the body. R.S.O. 1897, c. 177, s. 4.

Body delivered to medical school may be claimed by friends.

7.—(1) Any medical school obtaining a body shall keep and preserve the same for not less than fourteen days, and in the event of a relative or *bona fide* friend claiming it within that time, the medical school shall deliver the body to such relative or friend upon receipt of the reasonable costs and charges for preserving and keeping the same, not to exceed $10. R.S.O. 1897, c. 177, s. 3.

(2) Every such medical school shall keep such records as may be prescribed by the regulations, and the same shall at all times be open to inspection by the General Inspector and by a local Inspector. *New.*

Duties of local Inspector.

8. Every local Inspector of Anatomy shall

(*a*) Keep a register showing the name, age, sex, birthplace and religious denomination of every person whose unclaimed body has been received by him, and the name of the medical school to which such body was delivered, with the date of delivery. R.S.O. 1897, c. 177, s. 6, par. 1; 62 V. (2) c. 11, s. 37 (2).

(*b*) Keep a register of the medical schools qualified to receive and desirous of receiving bodies for the instruction of students;

(*c*) Subject to the provisions of section 6 distribute all bodies, in rotation, to such schools in proportion to the number of persons actually engaged in the study of human anatomy in each school, as shown by their official registers, which he shall be allowed to inspect;

(*d*) Inspect the authorized practical anatomy rooms in his locality at least once in every six weeks, and direct the removal and decent interment of any remains that he deems it advisable to have interred;

(*e*) Keep his registers open for the inspection of any registered medical practitioner who may desire to inspect them;

(*f*) Enter in the morgue register for the purpose of identification a description of every body received

by him, and of the clothing and effects found thereon, and the name of the medical school to which such body was delivered. R.S.O. 1897, c. 177, s. 6, pars 2-6.

(*g*) Furnish to the General Inspector the name of the deceased and of the school to which the body was sent. 62 V. (2), c. 11, s. 37 (2).

Certain persons to be notified by the Inspector on appointment.

9. Every local Inspector shall, without delay, give notice of his appointment to all persons mentioned in sections 10 to 13. R.S.O. 1897, c. 177, s. 7.

Coroner to give notice to Inspector of bodies found exposed.

10. Every coroner, whether he does or does not hold an inquest on a body found publicly exposed, to which his attention has been called, and which is not claimed in accordance with section 4, shall give notice to the local Inspector, if there is one, and if there is none, he shall cause the body to be interred at the expense of the municipality in which it was found. R.S.O. 1897, c. 177, s. 9. *Amended.*

Notice to be given to Inspector by person in charge of morgue.

11. Where the body is placed in a public morgue, the person in charge of the morgue shall forthwith give notice thereof to the local Inspector. R.S.O. 1897, c. 177, s. 10.

Notice to be given to Inspector by head of municipality.

12. The head of any municipality in which a dead body to which this Act applies is found and of which he has notice shall cause notice thereof to be given within twenty-four hours to the local Inspector. R.S.O. 1897, c. 177, s. 11.

Notice to be given to Inspector by superintendents of public institutions.

13.—(1) The superintendent of every public institution to which this Act applies shall, upon the death of an inmate of the institution, give notice thereof within twenty-four hours to the local Inspector. R.S.O. 1897, c. 177, s. 12.

Register to be kept by superintendent.

(2) Every such superintendent shall keep a register showing the name, age, sex, birthplace and religious denomination of each person whose body is disposed of under the provisions of this Act, and the school to which such body is delivered. and shall file all documents furnished by persons claiming bodies, and such register and documents shall be open for inspection.

(3) No superintendent shall deliver a body to a medical school except on the written order of the local Inspector. R.S.O. 1897, c. 177, s. 13.

14. A medical school desiring to avail itself of the benefits of this Act shall give a bond to the General Inspector in the sum of $80, with two sufficient sureties to his satisfaction in the sum of $40 each, for the decent interment of the bodies after they have served the purposes required; and thereupon the General Inspector shall deliver to such school a written authority to open a practical anatomy room entitled to the benefits of this Act. R.S.O. 1897, c. 177, s. 15. Medical schools availing themselves of this Act to give security.

15. Every person who neglects to discharge the duties imposed upon him by this Act or any regulation made thereunder or who contravenes any provision thereof shall incur a penalty of not more than $20 for every such offence. R.S.O. 1897, c. 177, s. 16. Penalty for neglect of duty by Inspector, etc.

16. No person shall send or take a dead body out of Ontario for surgical or practical anatomical purposes, and every person contravening the provisions of this section shall for each offence incur a penalty of $100. R.S.O. 1897, c. 177, s. 17. Removal of bodies from Province for purposes of anatomy prohibited.

17. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 177, s. 18. Recovery of penalties. 10 Edw. VII. c. 37.

18. Subject to the provisions of this Act, any unclaimed dead body found within the limits of a city, town, incorporated village or township, shall be interred at the expense of the corporation thereof, but such corporation may recover such expense from the estate of the deceased or from any person whose duty it was to inter such dead body. R.S.O. 1897, c. 177, s. 19. Burial of unclaimed bodies.

19. Chapter 177 of the Revised Statutes, 1897, and subsection 2 of section 37 of chapter 11 of the Acts passed at the second session of the 62nd year of the reign of Her late Majesty Queen Victoria, and section 41 of chapter 10 of the Acts passed in the 4th year, and section 40 of chapter 26 of the Acts passed in the 10th year of the reign of His late Majesty King Edward the Seventh are repealed. Repeal.

FORM I.

The Anatomy Act.

To all whom it may concern:

Whereas *A. B.*, of (*here state the name, residence and occupation of the person by whom or on whose behalf the order is applied for*) has satisfied me that he is a relative (*or bona fide friend*) of *C. D.*, deceased, and is entitled to have his body delivered to him for the purpose of interment.

I hereby authorize and order every person and authority having the present custody or control of the body forthwith upon presentation of this order to deliver it to the said *A. B.* for interment.

Witness my hand and seal as Police Magistrate (*or* Justice of the Peace) of and for (*as the case may be*) this day of 19 .

R.S.O. 1897, c. 177, s. 2, *part.*

No. 86.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Study of Anatomy.

First Reading.

Mr. PYNE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 87. 1911.

BILL

An Act respecting Water Privileges.

SHORT TITLE, s. 1.
OCCUPIED WATER PRIVILEGE, DEFINED, s. 2.
OCCUPIED WATER PRIVILEGE EXISTING PROTECTED, s. 3.
RIGHT OF ENTRY UPON LANDS TO IMPROVE WATER OR MILL PRIVILEGES, s. 4.
CASE OF PRIVILEGE NOT IN ACTUAL USE, s. 8.
APPLICATION TO COUNTY JUDGE TO OBTAIN POWERS UNDER THIS ACT, ss. 5-7, 9-13.
REGISTRATION OF JUDGE'S ORDER, s. 14.
POWERS OF JUDGE, s. 15.
FEES OF JUDGE, s. 16.
APPEALS FROM JUDGE'S ORDER, s. 17.
OBSTRUCTING NAVIGATION, ETC., s. 18.
REPEAL, s. 19.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Water Privileges Act.* (*New.*) Short title.

2. In this Act "occupied water privilege" shall mean a mill privilege, or water power, which has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R.S.O. 1897, c. 141, s. 1. Meaning of "occupied water privilege," etc.

3. Subject to the provisions of section 8, an occupied water privilege shall not be in any manner interfered with or encroached upon under the authority of this Act without the consent of the owner. R.S.O. 1897, c. 141. s. 20. Occupied water privilege not to be intefered with.

4.—(1) A person desiring to use or improve a water privilege, of which, or a part of which he is the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes, by erecting a dam and creating a pond of water, increasing the head of water in any existing pond, or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel, constructing Right of persons to enter and acquire lands for improving water privileges.

any raceway, or other erection or work which he may require in connection with the improvement and use of the privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection or work, or any part thereof, shall have the right to enter upon any land which he may deem necessary to be examined, and to make an examination and survey thereof, doing no unnecessary damage and making compensation for the actual damage done.

(2) If, upon an application to a Judge of the County or District Court, as hereinafter provided, such person obtains authority, he may take, acquire, hold and use such portions of the land so examined or such rights over or in respect thereof as the Judge may deem necessary for the completion, improvement or maintenance of the water privilege and works in connection therewith. R.S.O. 1897, c. 141, s. 2.

Proceedings for obtaining the powers given by this Act.

5.—(1) A person desiring to exercise the powers hereinbefore mentioned, or any of them, shall cause:—

(*a*) Surveys and levels to be made and taken of the lands sought to be taken, used or otherwise affected, and a map or plan thereof to be prepared;

(*b*) A statement to be prepared giving,

(I) A general description of the land to be taken and of the powers intended to be exercised with regard to any land, describing them;

(II) The names of the owners and occupiers of the land, so far as they can be ascertained, and

(III) Everything necessary for the right understanding of the map or plan, including a registrar's certified abstract of the titles to all the land to be affected by the application;

(*c*) The map or plan and the statement to be filed in the office of the Clerk of the County or District Court of the county or district wherein the land or part thereof is situate.

(2) He may then apply to the Judge of such County or District Court for an order empowering him to exercise the

powers or such of them as he may desire. R.S.O. 1897, c. 141, s. 4.

Public notice of application.

6. In addition to any other notice which the Judge may direct to be given public notice of the application stating the time and place when and where the same is to be heard, shall be inserted for such period as the Judge may direct, in a newspaper published in the county or district or one of the counties or districts where the proposed works are to be constructed, or any of the land affected is situate. R.S.O. 1897, c. 141, s. 5.

If the application is for the public good, Judge to grant an order.

7. If the Judge is of the opinion that the allowance of the application in whole or in part, is in the public interest and is proper and just under all the circumstances of the case, he may make an order empowering the applicant to exercise such of the powers as the Judge may deem expedient, for such time and on such terms and conditions as he may determine, and the land affected shall be described in the order. R.S.O. 1897, c. 141, s. 7.

Evidence on application to Judge against owner of privilege not in actual use, as to user and intent.

8. Where evidence is produced which satisfies the Judge that the owner of a water privilege which has been, but is not then in use for any of the purposes mentioned in subsection 1 of section 4, is holding the same with the intention of again using it for mechanical, manufacturing, milling or hydraulic purposes, the Judge may make an order fixing the time within which the necessary works for the actual use of such water privilege, shall be constructed and actually used, and, unless such evidence is produced or the terms of such order are complied with, the water privilege shall not be deemed to be an occupied water privilege within the meaning of this Act. R.S.O. 1897, c. 141, s. 3. *Amended.*

The case of two claiming the powers under this Act.

9. Where two or more persons claim to exercise the powers conferred by this Act, in respect of the same water privilege or any part thereof, the Judge may impose such terms as he may deem just, and may also limit a time within which the person whose application he allows shall construct the necessary works, and actually use such water privilege. R.S.O. 1897, c. 141, s. 14.

Ponds created not to exceed twenty acres, unless on order of County Judge.

10. No pond shall be authorized to be made or enlarged so as to exceed twenty acres in extent unless the Judge for special reasons otherwise directs. R.S.O. 1897, c. 141, s. 19.

Nature of the Judge's order.

11.—(1) The Judge shall state in the order the height to which the water may be raised, and fix the extent of the pond.

(2) The Judge shall also assess the sum to be paid as the value of the land to be taken or used or of the powers to be exercised, and the damages, if any, to be paid as compensation by the applicant for any injury which may be occasioned by the proposed works and may make such order as to costs as he may deem just.

(3) The costs shall be the same as in ordinary proceedings in the County Court, and shall be taxed by the Clerk. R.S.O. 1897, c. 141, s. 8; 5 Edw. VII. c. 13, s. 13.

Payment of amount awarded. Setting aside order.

12.—(1) The sums so assessed and the costs shall be paid to the persons entitled thereto, or into the High Court as the Judge may direct, before the powers or any of them are exercised, and within sixty days after the order is made.

9 Edw. VII. c. 46.

(2) If the same are not so paid the order may be enforced under *The Judges Orders Enforcement Act*, or, at the option of any of the persons entitled to receive a sum so assessed, may, on application to the Judge, be set aside and vacated as to him, and in such case the Judge may make such order as to the costs of the proceedings and of the application as he may deem just. R.S.O. 1897, c. 141, s. 9. *Amended.*

Conveyance of the lands.

13. Upon the payment of the sums assessed and costs, the applicant shall be entitled to a conveyance, to be settled by the Judge in case of dispute, of the land or rights mentioned in the order in respect of which payment is so made, and shall be further entitled to have and exercise such of the powers mentioned in section 4 as he is authorized by the order to exercise. R.S.O. 1897, c. 141, s. 10.

Registration of Judge's order.

14. For the purpose of registration the order shall be deemed a judgment of the Court to which the Judge belongs. R.S.O. 1897, c. 141, s. 11, *part.*

Judge's powers.

15. The Judge shall have all the powers possessed by him, or by a County or District Court, in an action. R.S.O. 1897, c. 141, s. 12.

Judge's fees.

16. The Judge shall be entitled for his services to the like fees as are allowed to professional arbitrators. R.S.O. 1897, c. 141, s. 13.

Appeal from County Judge to Divisional Court.

17.—(1) By leave of a Judge of the High Court an appeal shall lie from the final order of the Judge on any application under this Act, to a Divisional Court of the High Court.

(2) On such appeal the decision of the Judge upon questions of fact and all other questions shall be open to review. R.S.O. 1897, c. 141, s. 15.

Leave to appeal and practice.

(3) The application for leave to appeal shall be made within ten days from the day on which the order appealed from is made, or within such further time as a Judge of the High Court may allow.

(4) The Judge to whom the application is made shall determine the time within which the appeal shall be set down to be heard, the persons upon whom notice of the appeal shall be served and all such other matters as he may deem necessary for the most speedy and least expensive determination of the appeal. R.S.O. 1897, c. 141, s. 16. *Amended.*

Non-compliance with conditions of appeal an abandonment.

(5) If the appeal is not set down to be heard within the time limited, or if any other condition imposed is not complied with, the appeal shall, unless otherwise ordered by a Judge of the High Court, be deemed to have been abandoned. R.S.O. 1897, c. 141, s. 17.

Costs and practice on appeal.

(6) The practice and procedure upon the appeal, except so far as is herein or by the Judge to whom the application for leave is made, otherwise provided, shall be the same as upon an appeal from a County Court. R.S.O. 1897, c. 141, s. 18.

Work not to be in contravention of *The Rivers and Streams Act.*

18. No work shall be constructed under the authority of this Act in contravention of the provisions of *The Rivers and Streams Act.* R.S.O. 1897, c. 141, s. 22. *Amended.*

Repeal.

19. Chapter 141 of the Revised Statutes of Ontario, 1897, and section 13 of *The Statute Law Amendment Act 1905,* are repealed.

No. 87.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Water Privileges.

First Reading.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 88. 1911.

BILL

An Act respecting the Maintenance of Wives deserted by their Husbands.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Deserted Wives' Maintenance Act.* R.S.O. 1897, c. 167, s. 1.

Order by Magistrate for payment of weekly sum.

2.—(1) A married woman, deserted by her husband, may summon him before a police magistrate, or two justices of the peace, who, if satisfied that the husband being able wholly or in part to maintain his wife, or his wife and family, has wilfully refused or neglected so to do, and has deserted his wife, may order that the husband shall pay to his wife such weekly sum, not exceeding $5, with or without costs, as the magistrate or justices may consider proper, having regard to his means and to any means the wife may have, for her support and the support of the family.

Deserted, meaning of enlarged.

(2) A married woman shall be deemed to have been deserted within the meaning of this section when she is living apart from her husband because of his acts of cruelty, or of his refusal or neglect without sufficient cause to supply her with food and other necessaries when able to do so. R.S.O. 1897, c. 167, s. 2.

Proceedings in case of non-payment.

3.—(1) In case of non-payment of any sum so ordered together with costs for twenty-one days after the order has been made or such less time as the order provides, and when and so often as the payment so ordered is in arrear, such married woman may procure from the magistrate or justices making the order, a summons returnable on the tenth day after the service thereof.

(2) The summons may be served on the husband either personally or in such other manner as the magistrate or justices

may in writing direct, and shall require the husband to attend at the time and place mentioned therein to show cause why the order should not be enforced as hereinafter provided.

(3) The applicant and all witnesses whom the magistrate or justices think proper may be examined on oath touching the enquiries to be made on the return of the summons.

(4) If the husband does not attend as required by the summons, or show a sufficient reason for not attending, or does not satisfy the magistrate or justices that he is unable to pay the sum ordered to be paid, the magistrate or justices may enforce the order by the like proceedings, including imprisonment, as, under *The Ontario Summary Convictions Act*, are applicable in the case of a fine or penalty imposed by a justice of the peace. R.S.O. 1897, c. 167, s. 3.

10 Edw. VII. c. 37.

Power to vary order.

4. The magistrate or justices by whom the order for payment was made, or any other magistrate or justices sitting in his or their stead at his or their request, shall have power, from time to time, to vary the order on the application of either the husband or the wife, upon proof that the means of the husband or wife have been altered in amount since the making of the original order, or any subsequent order varying it. R.S.O. 1897, c. 167, s. 4.

Order not to be made when wife guilty of adultery.

5.—(1) No order shall be made in favour of a wife who is proved to have committed adultery, unless the adultery has been condoned; and any order may be rescinded by the magistrate or justices by whom it was made, or by a magistrate or justices sitting in his or their stead at his or their request, upon proof that the wife since the making thereof has been guilty of adultery if it has not been condoned. R.S.O. 1897, c. 167, s. 5.

Effect of finding as to adultery.

(2) A finding by the magistrate or justices that adultery has been proved shall not be evidence of the adultery except for the purpose of proceedings under this Act. R.S.O. 1897, c. 167, s. 7.

Trial may be private.

6. Cases arising under this Act may, in the discretion of the magistrate or justices, be heard in private. R.S.O. 1897, c. 167, s. 6.

Application for and service of summons.

7. A summons under this Act shall be applied for, granted, and served in the same manner as a summons in a case of assault, or in such other manner as the magistrate or justices direct; and the magistrate or justices, or other magistrate or justices sitting in his or their stead at his or their request, may at any time rehear

Rehearing.

the application at the instance of the husband after notice to the wife, and may confirm, rescind or vary any order made thereon as he or they may deem just. R.S.O. 1897, c. 167, s. 8.

Signing summons.

8. Where any matter is to be heard by two justices, the summons may be signed by one of them. R.S.O. 1897, c. 167, s. 9.

Forms.

9. Orders and summonses may be according to the forms in the schedule to this Act. R.S.O. 1897, c. 167, s. 10.

Provision as to costs and appeal.

10 Edw. VII. c. 37.

10. The costs of proceedings under this Act shall be the same as are provided for by *The Ontario Summary Convictions Act,* and the provisions of that Act as to appeals and the proceedings therein and incidental thereto shall apply to any order made under the provisions of this Act except that where the husband is the appellant he shall pay all costs. *See* R.S.O. 1897, c. 167, s. 11.

Repeal.

11. Chapter 167 of the Revised Statutes, 1897, and section 9 of chapter 26 of the Acts passed in the 9th year of the reign of His late Majesty King Edward the Seventh are repealed.

SCHEDULE.

SUMMONS.

County (*or* District) of } To *A. B.*, of

Whereas application has this day been made by your wife, *C. B.*, to the undersigned Police Magistrate (*or* Justice of the Peace *as the case may be*) for
for a summons under *The Deserted Wives' Maintenance Act*, for that you have wilfully refused or neglected to maintain your said wife (*or* your wife and family *as the case may be*), and have deserted your said wife. These are, therefore, to command you to appear before the undersigned, or such Police Magistrate or Justices as may then and there be present in my (*or* our) stead at
on the day after the service hereof, at the hour of in the noon, to shew cause why an order should not be made against you, to pay to your said wife for her support (*or* for the support of her and your family, *as the case may be*) such weekly sum not exceeding $5 as may be considered to be in accordance with your means and with the means of your said wife.

Given under hand and seal day of 19 .

J. S. [L.S.]

R.S.O. 1897, c. 167, Sched. A.

ORDER.

County (*or* District) of }

Upon reading the summons dated the day of 19 , issued by Police Magistrate for the (*or* Justices of the Peace for) upon the application of *C. B.*, wife of *A. B.*, under the provisions of *The Deserted Wives' Maintenance Act*, and upon hearing all the parties (*or as the case may be*) and the evidence adduced, and it appearing that the said *C. B.* is entitled to the benefit of the said Act; I (*or* we) the undersigned, do hereby order that the said *A. B.* do pay hereafter to his said wife, or her agent authorized in writing, at the sum of $ per week for her support (*or* for the support of her and the family of the said *A. B.*), the first weekly payment to be made on the day of 19 , together with the costs of these proceedings, which amount to $ which shall be paid on or before the day of 19 .

Given under hand and seal this day of 19 .

J. S. [L.S.]

R.S.O. 1897, c. 167, Sched. B.

SUMMONS AFTER DEFAULT.

County (*or* District) of } To *A. B.*, of

Whereas under and by virtue of the provisions of *The Deserted Wives' Maintenance Act*, by order dated the day of 19 , made by , Police Magistrate for (*or* by and two Justices of the Peace for) you were ordered to pay to your wife *C. B.* $ per week, together with costs, amounting to $; and whereas it is alleged by the said *C. B.* that you have made default in payment of said sum and costs, and that there is now due and owing, by virtue of the said order, $, You are therefore hereby summoned to appear before me (*or* us) *or* such other Police Magistrate (*or* Justice of the Peace), acting in my (*or* our) stead as may then and there be present at at the hour of o'clock in the noon, on the tenth day after service hereof, to show cause why proceedings for enforcing the said order should not be had against you under the said Act.

Given under hand and seal this day of 19 .

J. S. [L.S.]

R.S.O. 1897, c. 167, Sched. C.

No. 88.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Maintenance of Wives deserted by their Husbands.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 89. 1911.

BILL

An Act respecting the Custody of Documents relating to Titles to Land.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
DEPOSIT OF DOCUMENTS, ss. 3, 4, 8.
DOCUMENTS TO BE NUMBERED AND INDEXED, s. 5.
NOTICE OF DEPOSIT, s. 6.
REGISTRAR'S FEES, ss. 6 (2), 7.
DEPOSIT OF RECEIPTS, s. 8.
INSPECTION OF DOCUMENTS, s. 9.
EFFECT OF DEPOSIT, ss. 10, 11.
REGISTRAR TO KEEP SAFELY, s. 12.
EXPENSES OF EXECUTORS, s. 13.
REMOVAL OF DOCUMENTS FROM CUSTODY OF REGISTRAR, ss. 14, 15.
REPEAL, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Custody of Documents Act.* R.S.O. 1897, c. 137, s. 1.

Interpretation. "Document." 10 Edw. VII. c. 60.

2. In this Act "document" shall include whatever is included in the word "instrument," as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other power relating to land. R.S.O. 1897, c. 137, s. 2.

Person having custody of deeds, etc., may deposit them in registry office.

3. Any person having any document, forming or being a title-deed or evidence or muniment of title to land in Ontario may deposit the same for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered; or where it does not appear by any endorsement thereon, that the same or a duplicate or copy or memorial or certificate thereof has been registered, the document may be so deposited in the office of the registrar of any registry division in which any land to which the same relates is situate. R.S.O. 1897, c. 137, s. 3.

Requisition to be filed and receipt given.

4. Upon every such deposit, the person depositing shall deliver to the registrar a requisition in duplicate, Form 1, which may include any number of documents; and the registrar shall sign a receipt upon one of the duplicates for the documents therein mentioned, and shall deliver the receipt to the person by whom the deposit is made. R.S.O. 1897, c. 137, s. 4.

Each document to be numbered and entered in deposit. index and filed.

5.—(1) Upon receiving the requisition and the documents therein mentioned, the registrar shall enter every document in consecutive order in a book, Form 2, to be called the "Deposit Index," and shall therein number such documents consecutively, and shall endorse on each document the word "deposited," with the date of deposit and the number of the entry thereof in the deposit index; and shall file the same in consecutive order according to its number; and shall also endorse on the requisition the numbers so placed on the documents therein mentioned; and shall file all the requisitions in consecutive order according to such numbers.

Names to be entered in alphabetical index.

(2) The registrar shall also enter in an alphabetical index, to be called the "Alphabetical Deposit Index," the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or if the same is a certificate or an affidavit, or a statutory declaration or other proof, as to the birth, baptism, marriage, divorce, death or burial of any person, the name of such person.

Entry opposite registered instruments.

(3) Where it appears by any certificate of registration endorsed on the document that the same or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein the same is registered opposite the entry thereof, the words, "See deposit index No. , 19 ," referring to the number of the document in the deposit index, and the date of the deposit. R.S.O. 1897, c. 137, s. 5.

Notice to be sent to other registry offices where an instrument has been registered.

6.—(1) Where it appears by any certificate of registration endorsed on the document that the same is registered in any other registry division, the registrar with whom the same is deposited shall, within ten days after the deposit, send to such other registrar a notice thereof in duplicate, Form 3. R.S.O. 1897, c. 137, s. 6 (1).

Fees to other registrars.

(2) The registrar receiving the notice shall be entitled to a fee of twenty cents for every document, in respect of which he is required to make an entry. R.S.O. 1897, c. 137, s. 8.

(3) On receipt of the notice the registrar receiving the same shall enter in the margin of every registry book wherein the document appears to have been registered, opposite the entry thereof, the words, "See deposit index in Registry Office, No. , 19 ," referring to the registry office from which the notice is received, and the number and date of the deposit therein, and he shall forthwith send an acknowledgment of the receipt of the notice written upon one of the duplicate notices.

(4) If such an acknowledgment is not received within fourteen days from the sending of the notice, the registrar sending the notice shall send another like notice, and shall repeat the same every fourteen days till the acknowledgment is received.

(5) Every such notice and acknowledgment shall be sent by registered post, and a sufficient sum to pay the registrar's fees and the postage shall be sent with the notice.

(6) All notices received from other registrars shall be filed by the registrar receiving the same in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving them in the order of their receipt. R.S.O. 1897, c. 137, s. 6.

Registrar's fees.

7. The registrar with whom the deposit is made shall be entitled to the following fees to be paid at the time of the deposit by the person making the deposit:—

On every requisition	20 cents.
On every document deposited	10 "
For every notice necessary to be sent to other registrars, (not more than one notice to any one registrar to be charged for)	15 "
Necessary postage on the notices and acknowledgments	
A sum sufficient to pay the fees under sub-section 2 of section 6.	

R.S.O. 1897, c. 137, s. 7.

Deposit of receipts.

8.—(1) A receipt for payment of money on any registered instrument may be deposited in the registry office in which the instrument is registered, but it shall not be necessary to deliver any requisition with the receipt, or to pay any fee for depositing the same or the entries in respect thereof, except the sum of twenty cents.

Registrar to receive and enter.

(2) The registrar shall receive and file in consecutive numerical order all receipts so deposited, and shall endorse thereon the number, the date of deposit, and the amount mentioned in the receipt, and shall write in the margin of the registry

book wherein the instrument to which the receipt relates has been registered the words, "See receipt No. ." R.S.O. 1897, c. 137, s. 9.

Deposited documents open to inspection.

9. Any person shall be entitled to inspect and make or obtain copies of, or extracts from, any document deposited under this Act in like manner as in the case of instruments registered under *The Registry Act;* and the registrar shall be entitled to the same fees in respect thereof as in the case of registered instruments. R.S.O. 1897, c. 137, s. 10.

10 Edw. VII. c. 60.

Deposit not registration and not to affect document as evidence. 10 Edw. VII. c. 60.

10. The deposit of a document under this Act shall not be deemed a registration thereof within the meaning of *The Registry Act;* nor shall the admissibility or value of any document as evidence be affected by the deposit. R.S.O. 1897, c. 137, s. 11.

Deposit relieves from liability.

11. The deposit of a document under this Act shall, while the document continues so deposited, be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement entered into by any person, to produce or allow the inspection of, or the making of any copy of or extract from the document, and shall absolve any person liable for the production or custody thereof from any further liability in respect of such custody or production. R.S.O. 1897, c. 137, s. 12.

Registrar to keep safely.

12. The registrar with whom a document is so deposited shall keep the same safely in his office, in like manner and with the same care as the instruments registered in his office; and he and his sureties shall be responsible in respect thereof, in like manner as in respect of instruments registered under *The Registry Act;* and the registrar shall not part with the possession of any such document, unless in accordance with the order of a Court or a Judge as hereinafter provided. R.S.O. 1897, c. 137, s. 13.

10 Edw. VII. c. 60.

Expenses of executors, etc.

13. An executor, administrator or trustee may reimburse himself out of the estate any expense which he incurs in or about depositing any document which may come to his possession or control as such executor, administrator or trustee. R.S.O. 1897, c. 137, s. 14.

Application within 5 years to remove custody.

14.—(1) At any time within five years after the deposit of a document, any person may apply to the High Court or to the County or District Court of the county or district in which the deposit is made, or to a Judge of either of such Courts, for the delivery of the document to such person, and the Court or Judge may direct that the same shall be delivered by the registrar to the applicant, or to any person the Court or

Judge directs, upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of any person entitled at the time of the deposit to any interest therein, and, where the document relates to other land than that in which the applicant is interested, that there are reasonable grounds for removing the document from the custody of the registrar.

Notice of application.

(2) Before making the order, the Court or Judge may require such notice of the application, by advertisement or otherwise, to be given to the person by whom the deposit was made, or to any other person, as to the Court or Judge shall seem meet.

Costs.

(3) The order may direct that all or any part of the costs of the application, or of opposing the same, or in relation thereto, be paid by the person by whom the deposit was made, or by the person by whom the application is made, or by any person to whom notice of the application has been given or the Court or Judge may make such other order in respect of the costs of the applicant, and of the persons who have been notified, or who oppose the application, as may seem just. R.S.O. 1897, c. 137, s. 15.

Delivery under order

15.—(1) Upon the delivery to the registrar of the order, or a duplicate thereof, within six months after the date thereof, and upon payment to him of the sum of fifty cents, he shall deliver to the person mentioned therein the documents therein directed to be given to him, taking his receipt, or the receipt of his authorized agent therefor.

Registration of order.

(2) The registrar shall thereupon enter in the deposit index, opposite the entry of the document, the date of such delivery, and the name of the person to whom delivered, the Court or Judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of its receipt. R.S.O. 1897, c. 137, s. 16.

Repeal

16. Chapter 137 of the Revised Statutes, 1897, is repealed.

FORM 1.

Requisition.

To the Registrar of the Registry Division of

I (*or* we) hereby deposit with you, pursuant to *The Custody of Documents Act*, the following documents:—

Description of document.	Names of all parties.	Any other particulars or subject of certificate, affidavit, etc.	Land in this registry division to which documents relate.	Particulars of registration of registered instruments.			
				Registry division.	Date.	No.	Township, city, town, etc.

Dated (in duplicate)

Signed in presence of me, to whom the depositor, and his residence and occupation are well known. } C. D.
Residence, giving Lot, Con. or House No. and Street.
(*Occupation*)

A. B.

The documents above mentioned, with a duplicate of the above requisition, are this day received by me.

Dated

E. F.,
Registrar for

R.S.O. 1897, c. 137, Sched. Form A.

FORM 2.

Deposit Index.

Deposit No.	Description of document.	Parties.	Land in this registry division mentioned	Any other particulars or subject of certificates, affidavits, etc	Particulars of registration certificate endorsed.	Date of deposit.	By whom deposited.

R.S.O. 1897, c. 137, Sched. Form B

FORM 3.

NOTICE OF DEPOSIT.

To the Registrar of the Registry Division of

The following documents, which appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Documents Act.*

Deposit Index No.	Date of deposit.	Description of document.	Parties.	Particulars of registration in your registry division.		
				Township, city, town, etc.	Date of registration.	Registration No.
2146	8th Aug., 19	Mortgage.	John Smith to Wm. Jones.			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. I enclose cents for your fees and cents for postage on acknowledgment.

Dated at

Registrar for

ACKNOWLEDGMENT TO BE PUT ON DUPLICATE NOTICE.

The duplicate of above notice of deposit of (*three*) documents received at the registry office for this day of 19 , and entry of such deposit has been made in accordance with *The Custody of Documents Act.*

Registrar.

R.S.O. 1897, c. 137, Sched. Form C.

3rd Session, 12th Legislature.
1 George V., 1911.

BILL.

An Act respecting the Custody of Documents relating to Titles to Land.

First Reading.

Mr. Lucas,

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 90. 1911.

BILL

An Act respecting Veterinary Surgeons.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Veterinary Surgeons Act.* Short title.

[*Note. Sec. 1 repealed by 9 Edw. VII. c. 96, s. 16.*]

2. Veterinary practitioners holding the diplomas of the Agriculture and Arts Association or of the Ontario Veterinary College shall be entitled to professional fees in attending any Court of law as witnesses in such cases as relate to the profession. R.S.O. 1897, c. 184, s. 2. Witness fees of veterinary practitioners.

3. Any person not possessing a diploma or proper certificate from The Ontario Veterinary College or a diploma or certificate of a college whose diplomas or certificates are declared by the Lieutenant-Governor in Council to entitle the holders thereof to use the title of Veterinary Surgeon who appends to his name the term veterinary surgeon, or any abbreviation thereof, and any person who wilfully and falsely pretends to be, or who wilfully and falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead people to infer that he is, or is recognized by law as a veterinary surgeon, within the meaning of this Act, or that he possesses a diploma or certificate from any such college, shall incur a penalty not exceeding $100, and not less than $25, recoverable under *The Ontario Summary Convictions Act.* R.S.O. 1897, c. 184, s. 3. Penalty for wrongfully assuming title of veterinary surgeon. 10 Edw. VII. c. 37.

4. Chapter 184 of the Revised Statutes, 1897, is repealed. Repeal.

No. 90.

3rd Session, 12th Legislature.
1 George V., 1911.

BILL.

An Act respecting Veterinary Surgeons.

First Reading.

Mr. DUFF.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 91. 1911.

BILL

An Act Respecting Infants.

SHORT TITLE, s. 1.
CUSTODY OF INFANTS, ss. 2-4.
INFANTS' REAL ESTATE, ss. 5-10.
APPLICATION OF DIVIDENDS FOR MAINTENANCE, s. 13.
SETTLEMENTS BY INFANTS ON MARRIAGE, ss. 14-17.
GUARDIANS, ss. 18-24.
APPOINTMENT AND REMOVAL OF, ss. 18-23.
AUTHORITY OF, s. 24.
APPEALS FROM SURROGATE COURT, s. 25.
PRACTICE AND PROCEDURE IN SURROGATE COURTS, s. 26.
JURISDICTION OF HIGH COURT, s. 27.
FATHER'S AUTHORITY IN RESPECT OF RELIGIOUS FAITH OF CHILD, s. 28.
REPEAL, s. 29.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1 This Act may be cited as *The Infants Act.* Short title

CUSTODY OF INFANTS.

2.—(1) The High Court or the Surrogate Court, upon the application of the mother of an infant, who may apply without a next friend, may make such order as the Court sees fit regarding the custody of the infant, and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary or discharge the order on the application of either parent, or, after the death of either parent, of any guardian appointed under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for the same, or otherwise as the Court may deem just. Court may make order as to custody of and right of access to, infant.

(2) The Court may also make an order for the maintenance of the infant by payment by the father, or out of any estate to which the infant is entitled, of such sum from time to time as according to the pecuniary circumstances of the Order as to maintenance

father or the value of the estate the Court deems reasonable. R.S.O., 1897, c. 168, s. 1.

Order not to be made in favour of mother guilty of adultery.

(3) No order directing that the mother shall have the custody of or access to an infant shall be made in favor of a mother against whom adultery has been established by judgment in an action for criminal conversation or for alimony. R.S.O., 1897, c. 168, s. 2.

Fathers may dispose of the custody of children during their minority.

3.—(1) The father of a child under the age of twenty-one years, whether born at the time of the decease of the father or at the time *en ventre sa mere,* by deed or by his last will and testament in such manner and from time to time as he shall think fit may dispose of the custody and education of such child while he remains under the age of twenty-one years or for any lesser time to any person in possession or remainder.

(2) Such disposition shall be good and effectual against every person claiming the custody or education of such child as guardian in socage or otherwise.

Action of guardian for protection of ward.

(3) The person to whom the custody of such child is so committed may maintain an action against any person who wrongfully takes away or detains him for the recovery of such child and for damages for such taking away or detention for the use and benefit of the child. 12 Car. II., c. 24, s. 8; R.S.O., 1897, c. 340, s. 2.

Rules of equity as to custody and education of infants to prevail.

4.—In questions relating to the custody and education of infants the rules of equity shall prevail. R.S.O. 1897, c. 51, s. 58 (12).

INFANTS REAL ESTATE.

A sale of the estate of infants may be authorized.

5.—(1) Where an infant is seised, possessed of or entitled to any real estate in fee or for a term of years, or otherwise, and the High Court is of opinion that a sale, lease or other disposition of the same, or of a part thereof, is necessary or proper for the maintenance or education of the infant or that for any cause his interest requires or will be substantially promoted by such disposition, the Court may order the sale, or the letting for a term of years, or other disposition of such real estate, or any part thereof, to be made under the direction of the Court or of one of its officers, or by the guardian of the infant, or by a person appointed for the purpose, in such manner and with such restrictions as may be deemed expedient, and may order the infant to convey the estate.

(2) No sale, lease, or other disposition shall be made contrary to the provisions of a will or convevance by which the estate has been devised or granted to the infant or for his use. R.S.O. 1897, c. 168, s. 3.

No sale contrary to a devise, etc.

6. The application shall be in the name of the infant by his next friend, or guardian; but shall not be made without the consent of the infant if he is of the age of fourteen years or upwards unless the Court otherwise directs or allows. R.S.O. 1897, c. 168, s. 4.

The application to be by next friend or guardian.

7. Where it is deemed convenient, the Court may direct some other person in the place of the infant to convey the estate. R.S.O. 1897, c. 168, s. 5.

When a substitute may be appointed to convey.

8. Every such conveyance, whether executed by the infant or by a person appointed to execute the same in his place, shall be as effectual as if the infant had executed the same, and had been of the age of twenty-one years at the time. R.S.O. 1897, c. 168, s. 6.

Deeds executed in behalf of infants to be valid.

9. The money arising from such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court directs. R.S.O. 1897, c. 168, s. 7.

The Court to direct the application of proceeds.

10. On any sale or other disposition so made, the money raised, or the surplus thereof, shall be of the same nature and character as the estate sold or disposed of; and the heirs, next of kin, or other representatives of the infant, shall have the like interest in any surplus which may remain at the decease of the infant as they would havehad in the estate sold or disposed of if no such sale or other disposition had been made. R.S.O. 1897, c. 168, s. 8.

Quality of surplus moneys upon sale of real estate.

11. If any real estate of an infant is subject to dower, and the person entitled to dower consents in writing to accept in lieu of dower a gross sum which the Court deems reasonable, or the permanent investment of a reasonable sum in such manner that the interest thereof be made payable to the person entitled to dower during her life, the Court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower, as upon the principles applicable to life annuities may be deemed a reasonable satisfaction for such dower; or may direct the payment to the person entitled to dower of an annual sum or of the income or interest to be derived from the purchase money, or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money, or any part thereof, as may be necessary. R.S.O. 1897, c. 168, s. 9.

In cases of dower a composition may be made.

(As to conveyance by infants where land is sold by direction of the Court for payment of debts of ancestors, see The Trustee Act, s. 62.)

Order for maintenance where estate settled for life with power of appointment in favour of children of life tenant.

12.—(1) Where by a will or other instrument property is given beneficially to any person for his life with a power of devising or appointing the same by will in favour of his children, or of one or more of them, the High Court may on the application, or with the consent, of the tenant for life, order that such portion of the proceeds of the property, as it may deem proper, shall be applied towards the maintenance or education of any infant child in whose favour the power might be exercised, notwithstanding that there is a gift over in the event of there being no children to take under the power, or that there is a right conferred upon the tenant for life or upon some other person in such event to make a disposition of the property in favour of some person other than such children.

Application of section.

(2) This section shall extend to property coming within its terms where the will or other instrument under which it is held has gone into operation or has been executed before the 5th day of May, 1894. R.S.O. 1897, c. 168, s. 10.

DIVIDENDS ON INFANT'S STOCK OR PROCEEDS THEREOF.

High Court may order dividends of stock belonging to infants to be applied for maintenance.

13.—(1) The High Court by an order to be made on the application of the guardian of an infant in whose name any stock or money by virtue of any statute for paying off any stock is standing and who is beneficially entitled thereto, or if there is no guardian by an order to be made in any action, cause or matter depending in the Court may direct all or any part of the dividends in respect of such stock or any such money to be paid to the guardian of such infant or to any other person for the maintenance and education or otherwise for the benefit of the infant.

Imp. Act 11 Geo. IV.; 1 Wm. IV. c. 65, s. 32.

(2) Such guardian or other person to whom payment is directed to be made shall be named in the order and his receipt therefor shall be as effectual as if the infant had attained the age of twenty-one years and had signed and given the same. R.S.O. 1897, c. 340, s. 12.

Costs may be directed to be paid.

(3) The Court may order the costs and expenses of and relating to the application to be paid and raised out of, or from, the stock or dividends in respect of which the same is made in such manner as the Court deems proper. R.S.O. 1897, c. 340, s. 13.

Imp. Act 11 Geo. IV., 1 Wm. IV. c. 65, s. 35.

(4) This section shall be a full and complete indemnity and discharge to all banks, companies and societies and their officers and servants for all acts and things done, or permitted to be done pursuant thereto. R.S.O. 1897, c. 340, s. 14.

Act to be an indemnity to banks, etc.

Imp. Act 11 Geo. IV.; 1 Wm. IV. c. 65, s. 44.

MARRIAGE SETTLEMENTS OF INFANTS.

14.—(1) Every infant upon, or in contemplation of, his marriage with the sanction of the High Court may make a valid and binding settlement, or contract for a settlement, of all or any part of his property or property over which he has a power of appointment, whether real or personal and whether in possession, reversion, remainder or expectancy, and every conveyance, appointment and assignment of such property or contract to make a conveyance, appointment or assignment thereof, executed by such infant with the approbation of the Court for the purpose of giving effect to such settlement, shall be as valid and effectual as if the person executing the same were of the full age of twenty-one years.

Infants may with the approbation of the High Court make valid settlements upon marriage.

Imp. Act 18 and 19 Vict. c. 43, s. 1.

(2) This section shall not extend to a power which it is expressly declared shall not be exercised by an infant. R.S.O. 1897, c. 340, s. 15.

15. Where an appointment under a power of appointment or a disentailing assurance has been executed by an infant tenant in tail under the provisions of the next preceding section and the infant afterwards dies under age, such appointment or disentailing assurance shall thereupon become absolutely void. R.S.O. 1897, c. 340, s 16.

If infant die under age, appointment or disentailing deed to be void.

Imp. Act 18 and 19 Vict. c. 43, s. 2.

16. The sanction of the Court to any such settlement or contract for a settlement may be given upon the application of the infant or his guardian without the institution of an action, and if there is no guardian, the Court may require a guardian to be appointed if it shall think fit and the Court may also require that any person interested or appearing to be interested in the property shall be served with notice of the application. R.S.O. 1897, c. 340, s. 17.

The sanction of the High Court to be given upon motion.

Imp. Act 18 and 19 Vict c. 43, s. 3.

17. Nothing in the three next preceding sections shall apply to a male infant under the age of twenty years, or to a female infant under the age of seventeen years. R.S.O. 1897, c. 340, s. 18.

SS. 14-16 not to apply to males under 20 or females under 17.

Imp Act 18 and 19 Vict. c. 43, s. 4.

APPOINTMENT OF GUARDIANS.

18.—(1) The Surrogate Court may appoint the father of the infant or may with the consent of the father appoint

Right to appoint guardians.

some other suitable person or persons to be the guardian or guardians of the infant, but if the infant is of the age of fourteen years no such appointment shall be made without his consent.

When Judges of Surrogate Courts may appoint guardians.

(2) If the infant has no father living or any guardian authorized by law to take the care of his person and the charge of his estate, if any, or if he is of the age of 14 years and does not give the consent mentioned in the next preceding subsection, upon the written application of the infant, or of any friend of the infant, residing within the jurisdiction of the Surrogate Court to which the application is made, and after proof of twenty days' public notice of the application, in some newspaper published within the county or district to the Surrogate Court of which the application is made the Court may appoint some suitable and discreet person or persons to be guardian or guardians of the infant whether the infant is or is not entitled to any property.

(3) Letters of guardianship granted by a Surrogate Court shall have force and effect in all parts of Ontario; and an official certificate of the grant may be obtained as in the case of letters of administration. R.S.O. 1897, c. 168, ss. 11 and 12; 3 Edw. VII. c. 7, s. 31 (1-2).

Such guardians to give security by bond.

9 Edw. VII. c. 67.
7 Edw. VII. c. 34.

19. Subject to the provisions of *The Guarantee Companies Securities Act* and of *The Ontario Companies Act*, the Court shall take from every guardian appointed under section 18 a bond in the name of the infant, in such penal sum and with such sureties as the Judge approves, conditioned that the guardian will faithfully perform his trust, and that he, or his executors or administrators, will, when the infant becomes of the full age of twenty-one years, or whenever the guardianship is determined, or sooner if thereto required by law, render a true and just account of all goods, moneys, interest, rents, profits or other estate of the infant, which shall have come into the hands of the guardian, and will thereupon without delay deliver and pay over to the infant, or to his executors or administrators the estate or the sum which may be in the hands of the guardian belonging to the infant, deducting therefrom and retaining a reasonable sum for the expenses and charges of the guardian, and the bond shall be recorded by the registrar of the Court in the books of his office. R.S.O. 1897, c. 168, s. 13.

Condition of bond.

Bond to be recorded.

On death of father, mother to be guardian alone, or jointly with others.

20.—(1) On the death of the father of an infant, the mother, if surviving, shall be the guardian of the infant, either alone, when no guardian has been appointed by the father, or jointly with any guardian appointed by the father.

(2) Where no guardian has been appointed by the father, or if the guardian appointed by the father is dead, or refuses to act, the High Court or the Surrogate Court may from time to time appoint a guardian or guardians to act jointly with the mother. R.S.O. 1897, c. 168, s. 14.

Mother may appoint guardian in certain cases

(3) The mother of an infant may, by deed or will, appoint any person or persons to be guardian or guardians of the infant after the death of herself and the father of the infant, if the infant be then unmarried, and where guardians are appointed by both parents they shall act jointly.

(4) The mother of an infant may, by deed or will, provisionally nominate some fit person or persons to act as guardian or guardians of the infant after her death jointly with the father of the infant, and the Court after her death, if it be shown that the father is for any reason unfitted to be the sole guardian of his children, may confirm the appointment of such guardian or guardians, who shall thereupon be empowered to act, or may make such other order in respect of the guardianship as may be deemed just. R.S.O. 1897, c. 168, s. 15.

Direction by Court on matters affecting infant.

(5) In the event of guardians being unable to agree among themselves or with the father upon a question affecting the welfare of an infant, any of them or the father may apply to such Court for its direction, and the Court may make such order as may be deemed just. R.S.O. 1897, c. 168, s. 16.

[*As to appointment of trusts companies as guardian, see The Ontario Companies Act, ss. 149 and 153a, and 8 Edw. VII. c. 43, s. 2.*]

Removal of guardians.

21.—(1) Testamentary guardians and guardians appointed or constituted by virtue of this Act shall be removable by the High Court or by the Surrogate Court for the same causes for which trustees are removable. R.S.O. 1897, c. 168, s. 17.

(2) Any such guardian may by leave of the Court resign his office upon such terms and conditions as may be deemed just. (*New.*)

Surrogate Registrar to make certain returns to Surrogate Clerk. 10 Edw. VII. c. 31.

22. A return of every appointment and removal or resignation of a guardian shall be made by the Registrar of the Court to the Surrogate Clerk in like manner as is required by *The Surrogate Courts Act* in the case of grants of probate or administration. R.S.O. 1897, c. 168, s. 11, *part.*

What Surrogate Court or Judge to act.

23.—(1) The Surrogate Court referred to in sections 2 and 18 to 21, is the Surrogate Court of the county or district in which the infants or any or either of them reside. R.S.O. 1897, c. 168, s. 18.

(2) The powers conferred by this Act on the High Court may be exercised by a Judge thereof in Chambers. (*New.*)

AUTHORITY OF GUARDIANS.

Guardian's authority.

24. Unless where the authority of a guardian appointed or constituted by virtue of this Act is otherwise limited, the guardian so appointed or constituted during the continuance of his guardianship,

To act for ward.

(*a*) Shall have authority to act for and on behalf of the infant;

To appear in actions.

(*b*) May appear in any Court and prosecute or defend any action or proceeding in his name;

To manage real and personal estate, etc.

(*c*) Shall have the charge and management of his estate, real and personal, and the custody of his person and the care of his education; and

To apprentice wards.

Rev. Stat. c. 161.

(*d*) Shall have authority to apprentice the infant in accordance with the provisions of the *Apprentices and Minors Act.* R.S.O. 1897, c. 168, s. 19.

PRACTICE IN AND APPEALS FROM SURROGATE COURTS.

Appeal from order or judgment of Surrogate Court.

10 Edw. VII c. 31.

25. An appeal shall lie from an order or judgment of a Surrogate Court under this Act to a Divisional Court of the High Court and the practice and procedure shall be the same as in the case of an appeal under *The Surrogate Courts Act.* R.S.O. 1897, c. 168, s. 20, *part.*

Practice and procedure.

10 Edw. VII. c. 31.

26.—(1) The practice and procedure under *The Surrogate Courts Act* and Rules shall apply to proceedings in the Surrogate Court under this Act and the power to make rules under that Act shall apply to proceedings under this Act. R.S.O. 1897, c. 168, s. 21.

Fees in estates of small value

(2) Where there is no estate or where the whole estate does not exceed in value $400 the fees to be charged to an applicant for letters of guardianship shall not exceed $2. 3 Edw. VII. c. 7, s. 32.

GENERAL PROVISIONS.

27. Nothing in this Act shall deprive the High Court of jurisdiction in matters provided for by this Act. R.S.O. 1897, c. 168, s. 11, *part.* Jurisdiction of High Court not affected.

28. Nothing in this Act shall change the law as to the authority of the father in respect of the religious faith in which his child is to be educated. R.S.O. 1897, c. 168, s. 23. Religious education of infant.

29. Chapter 168 and sections 2, 3 and 12 to 18 of chapter 340 and paragraph 12 of section 58 of chapter 51 of the Revised Statutes, 1897, and section 31 and 32 of *The Statute Law Amendment Act, 1903,* are repealed. Repeal.

No. 91

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act Respecting Infants.

First Reading.

Mr. Lucas.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 92. 1911.

BILL

An Act Respecting the Culling and Measurement of Saw Logs cut upon Public Lands.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
BOARD OF EXAMINERS, ss. 3-6.
EXAMINATIONS, s. 7.
LICENSES, s. 8.
OATH OF CULLERS, s. 9.
UNLICENSED PERSONS NOT TO ACT, s. 10.
DUTIES OF CULLERS, ss. 11, 12.
BOOKS AND RECORDS, s. 13.
RETURNS, s. 14.
CANCELLATION OF LICENSE FOR MISCONDUCT, ss. 15, 16.
ACT NOT TO AFFECT REGULATIONS UNDER CROWN TIMBER ACT, s. 17.
REPEAL, s. 18.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Cullers' Act.* R.S.O. 1897, c. 186, s. 1. Short title.

2. In this Act, Interpretation.

(*a*) "Department" shall mean the Department of Lands, Forests and Mines; "Department."

(*b*) "Minister" shall mean the Minister of Lands, Forests and Mines; "Minister."

(*c*) "Public Lands" shall include Crown lands, school lands and clergy lands; "Public lands."

(*d*) "Saw logs" shall include logs of pine of whatever length whether round or flatted. R.S.O. 1897, c. 186, s. 2. *Amended.* "Saw-logs."

3. The Lieutenant-Governor in Council may appoint as many Boards of Examiners as he may deem necessary, each consisting of three skilled persons, any two of whom shall form a quorum, whose duty it shall be to examine, test and report upon the ability and knowledge of all applicants desir- Examination of applicants for licenses to cull and measure saw-logs.

ing to be licensed to cull and measure saw-logs, cut on Public Lands, and to perform such other duties as may be assigned to them by the Lieutenant-Governor in Council. R.S.O. 1897, c. 186, s. 3.

Oath of examiner.

4.—(1) Every Examiner, before entering on his duties, shall take and subscribe an oath to the following effect:

That I , will act as Examiner of Cullers to the best of my ability and knowledge, and will conduct the examinations without fear, favour or affection, and recommend for licenses only those persons who have satisfactorily proved their fitness to discharge the duties of culling and measuring saw-logs.

(2) The oath shall be transmitted to the Minister. R.S.O. 1897, c. 186, s. 4.

Fees of examiners.

5. The Lieutenant-Governor in Council may authorize the payment to each member of such Board as remuneration for his services, a sum not exceeding $4 per day, while actually employed as such Examiner. R.S.O. 1897, c. 186, s. 5.

Sittings of boards of examiners.

6. Every Board shall sit at such places and on such dates as may be fixed by the Minister, and shall examine all candidates who present themselves before them, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of such of the candidates as they believe are trustworthy and of good character, and who have passed a satisfactory examination, and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as cullers. R.S.O. 1897, c. 186, s. 6.

Candidates to give notice and pay fees.

7. Every person intending to present himself for examination as a culler shall on or before the first day of May in any year give notice in writing to the Minister of such intention, and of his post office address, and shall pay into the Department $4 as an examination fee. R.S.O. 1897, c. 186, s. 7.

License to cullers.

8. The Minister may issue a license to any person reported as competent to perform the duties of a culler, such license to be in the form following, and to remain in force until cancelled:—

To of the (*County or District*) of

By virtue of authority vested in me by *The Ontario Cullers' Act*, I hereby authorize you to act, during pleasure, as culler of saw-logs cut on Public Lands within Ontario.

Given under my hand this day of 19 .

Minister of Lands, Forests and Mines.

R.S.O. 1897, c. 186, s.8.

9.—(1) Before such license is issued each successful applicant shall take an oath to the following effect: Oath of applicant for license.

That I, , while acting as licensed culler, without fear, favour or affection, and to the best of my judgment and skill, will correctly measure all saw-logs cut on Public Lands which I may be employed to measure, and make true return of the same to the Department of Lands, Forests and Mines, or its agents.

(2) The oath shall be transmitted to the Minister. R.S.O. 1897, c. 186, s. 9.

10.—(1) No person other than a licensed culler shall make measurement of saw-logs cut upon Public Lands for the purposes of a return to the Department; but where it is made to appear to the satisfaction of the Minister that the services of a licensed culler are not procurable, the Minister may issue a special permit to any trustworthy and skilled person to act as culler, upon his taking the prescribed oath, but such permit shall not extend beyond the 1st day of July next following its date. Unlicensed persons not to make measurements. Proviso.

(2) This section shall not apply to the operations of any lumber company, person or firm whose gross annual output is under 250,000 feet board measure. R.S.O. 1897, c. 186, s. 10.

11. It shall be the duty of every culler to measure fairly and correctly to the best of his skill, knowledge and ability, all saw-logs which he may be employed to measure, making only such deductions as are necessary to allow for rots or other defects, and to enter in a book of record, for the purpose of return to the Department, what he believes to be the proper contents of the logs, noting also the number of saw-logs rejected as worthless, commonly called culls. R.S.O. 1897, c. 186, s. 11. Duties of cullers.

12. Upon all logs culled or rejected as wholly worthless he shall mark the word "cull" in plain letters, but he shall not mark "cull" upon any log which is intended to be hauled to any river, lake or stream for the purpose of being driven to a mill. R.S.O. 1897, c. 186, s. 12. Culled logs to be marked.

13. All licensed cullers shall submit their books and records of measurement for the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Department when called upon so to do, and shall give all information asked for if in their power, and furnish any statements or copies of statements which the Department or its agents may require. R.S.O. 1897, c. 186. s. 13. Inspection of books and records of cullers.

Returns to be made by cullers.

14. At the end of the season every culler shall make a sworn return upon forms supplied by the Department or its agents, which shall show the number of pieces measured and accepted by him, and their respective lengths and diameters, and also the number of pieces rejected as worthless. R.S.O. 1897, c. 186, s. 14.

Cancellation of license.

15. If a culler neglects or refuses to carry out and obey the provisions of this Act, or any regulations made under it, the Minister may cancel his license and such culler shall not thereafter be eligible to cull or measure saw-logs cut upon Public Lands, and if he does so he shall incur a penalty of not less than $10 or more than $50 recoverable under *The Ontario Summary Convictions Act.* R.S.O. 1897, c. 186, s. 15.

10 Edw. VII. c. 37.

Penalty for making improper measurements or false returns.

16. If a culler wilfully undermeasures or mismeasures or improperly culls and rejects any saw-logs, or makes a false return for the purpose of deceiving or defrauding, his license shall be revoked, and he shall not thereafter be permitted to act as culler under this Act; and in addition he shall incur a penalty of not less than $20 or more than $100, recoverable under *The Ontario Summary Convictions' Act.* R.S.O. 1897, c. 186, s. 16.

10 Edw. VII c. 37.

Act not to affect regulations under Rev. Stat. c 32.

17. This Act shall not abrogate any regulations made under *The Crown Timber Act,* except in so far as they may be inconsistent herewith. R.S.O. 1897, c. 186, s. 17.

Repeal.

18. Chapter 186 of the Revised Statutes, 1897, is repealed.

No. 92

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Culling and Measurement of Saw-logs cut upon Public Lands.

First Reading.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 93. 1911.

BILL

An Act respecting Innkeepers and Others.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Innkeepers' Act*. *New.*

Interpretation.

2. In this Act,

"Inn."

(*a*) "Inn" shall include an hotel, inn, tavern, public house or other place of refreshment, the keeper of which is by law responsible for the goods and property of his guests; and

"Innkeeper."

(*b*) "Innkeeper" shall mean the keeper of any such place. R.S.O. 1897, c. 187, s. 1.

Lien on baggage, etc., for accommodation, etc., furnished, and power to sell.

3.—(1) Every innkeeper, boarding-house keeper and lodging-house keeper shall have a lien on the baggage and property of his guest, boarder or lodger, for the value or price of any food or accommodation furnished to him or on his account.

(2) In addition to all other remedies provided by law, he shall have the right, in case the same remains unpaid for three months, to sell by public auction the baggage and property of such guest, boarder or lodger, on giving one week's notice by advertisement in a newspaper published in the municipality in which the inn, boarding-house, or lodging-house is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, or lodging-house, of the intended sale.

(3) The advertisement shall state the name of the guest, boarder or lodger, the amount of his indebtedness, the time and place of sale, and the name of the auctioneer, and shall

give a description of the baggage or other property to be sold.

(4) The innkeeper, boarding-house keeper, or lodging house keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of such advertising and sale, and shall pay over the surplus, if any, to the person entitled thereto, on application being made by him therefor. R.S.O. 1897, c. 187, s. 2 (1).

Lien on horses and carriages.

(5) Every keeper of a livery stable or a boarding stable shall have a lien on every horse or other animal boarded at or carriage left in such livery stable or boarding stable for his reasonable charges for boarding and caring for such horse, animal or carriage. 4 Edw. VII. c. 10, s. 44.

Lien on horses, etc., and power to sell.

(6) Where an innkeeper, boarding-house keeper, lodging-house keeper, livery stable keeper or boarding stable keeper, has a lien upon a horse, other animal or carriage for the value or price of any food or accommodation supplied, or for care or labour bestowed thereon, he shall in addition to all other remedies provided by law, have the right, in case the same remains unpaid for two weeks, to sell by public auction such horse, animal or carriage on giving two weeks' notice by advertisement in a newspaper published in the municipality in which the inn, boarding-house, lodging-house, livery stable or boarding stable is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, lodging-house, livery stable or boarding stable of the intended sale.

(7) The advertisement shall state the name, if known, of the person or persons who brought such horse, animal or carriage to the inn, boarding-house, lodging-house, livery stable or boarding stable, the amount of the indebtedness, and the name of the auctioneer, and shall give a description of the horse, animal or carriage.

(8) The innkeeper, boarding-house keeper, lodging-house keeper, livery stable keeper or boarding stable keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of such advertisement and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R.S.O. 1897, c. 187, s. 2 (2); 7 Edw. VII. c. 23, s. 17.

Innkeeper not liable for loss of goods and property of guest

4.—(1) No innkeeper shall be liable to make good to any guest of such innkeeper, any loss of or injury to goods or property brought to his inn not being a horse or other

live animal, or any gear appertaining thereto, or any carriage, to a greater amount than the sum of $40 except in the following cases, that is to say:— beyond $40, unless lost,

(*a*) Where such goods or property have been stolen, lost, or injured through the wilful act, default, or neglect of such innkeeper, or any servant in his employ; by his wilful default,

(*b*) Where such goods or property have been deposited expressly for safe custody with such innkeeper. or unless deposited with him for safe keeping.

(2) In case of such deposit, it shall be lawful for such innkeeper, if he thinks fit, to require as a condition of his liability that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same. R.S.O. 1897, c. 187, s. 3.

5. If an innkeeper refuses to receive for safe custody, as mentioned in clause (*b*) of subsection 1 of the next preceding section, any goods or property of his guest, or if such guest, through any default of such innkeeper, is unable to deposit such goods or property, the innkeeper shall not be entitled to the benefit of this Act in respect thereof. R.S.O. 1897, c. 187, s. 4. Liability for refusal to take charge of goods

6. Every innkeeper shall cause to be kept conspicuously posted up in the office and public rooms and in every bedroom in his inn a copy of section 4, printed in plain type; and he shall be entitled to the benefit thereof in respect of such goods or property only as are brought to his inn while such copy is so posted up. R.S.O. 1897, c. 187, s. 5. Copy of section 4 to be conspicuously exhibited

7. The lien of an innkeeper or boarding-house keeper upon the wearing apparel of any servant or labourer shall not extend to any greater sum than $6, and on payment or tender of that sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever may be the amount due by such servant or labourer. 10 Edw. VII. c. 26, s. 9. (*See* R.S.O. 1897, c. 157, s. 6.) Innkeeper, etc. not to have a lien on wearing apparel of servant or labourer for more than $6.

8. Chapter 187 of the Revised Statutes, 1897, and section 44 of chapter 10 of the Acts passed in the 4th year, section 17 of chapter 23 of the Acts passed in the 7th year, and section 9 of chapter 26 of the Acts passed in the 10th year of the reign of His late Majesty King Edward the Seventh are repealed. Repeal.

No. 93

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Innkeepers and others.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 94. 1911

BILL

An Act respecting the Solemnization of Marriage.

SHORT TITLE, s. 1.
MINISTERS OF ALL DENOMINATIONS MAY SOLEMNIZE MARRIAGES, s. 2.
MARRIAGE BY QUAKERS, s. 3.
MARRIAGES TO BE EITHER BY LICENSE OR CERTIFICATE, OR BY BANNS, AND WITHIN CERTAIN HOURS, ss. 4, 5.
PROTECTION OF MINISTERS, s. 6.
ISSUE OF LICENSES OR CERTIFICATES, ss. 7-14.
PERSONS WHOSE CONSENT REQUIRED TO THE MARRIAGE OF A MINOR, s. 15.
CERTAIN MARRIAGES PROHIBITED, s. 16.
AFFIDAVIT REQUIRED TO OBTAIN A LICENSE OR CERTIFICATE, s. 17.
CONSENT TO BE PRODUCED, s. 17.
PROHIBITED DEGREES, s. 18.
LICENSE, ETC., NOT TO ISSUE IF ISSUER KNOWS OR SUSPECTS THAT AFFIDAVIT IS FALSE, ETC., s. 19.
RETURN TO PROVINCIAL SECRETARY, s. 20.
FEES FOR LICENSES, s. 21.
MARRIAGE NEED NOT BE IN A CHURCH, NOR INVALID BECAUSE NOT WITHIN PARTICULAR HOURS, s. 22.
CERTIFICATE OF MARRIAGE TO BE GIVEN BY MINISTER IF REQUIRED, s. 23.
REGISTRY BOOK, ss. 24-27.
CERTAIN MARRIAGES DECLARED VALID, ss. 28-32.
POWER TO DECLARE CERTAIN MARRIAGES INVALID, s. 33.
REPEAL, s. 35.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Marriage Act*. R.S.O. 1897, c. 162, s. 1. Short title.

WHO MAY SOLEMNIZE MARRIAGES.

2. The following persons, being men and resident in Canada, may solemnize marriage between persons not under a legal disqualification to contract such marriage: Who may solemnize marriage in Ontario.

(*a*) The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the church or denomination to which they respectively belong; Ministers and clergymen.

Elders, etc., Congregations of God and Disciples of Christ.

(*b*) Any elder, evangelist or missionary for the time being of any church or congregation of the religious people commonly called or known congregationally as "Congregations of God" or "of Christ," and individually as "Disciples of Christ," who from time to time is chosen by any such congregation for the solemnization of marriages;

Officers of Salvation Army.

(*c*) Any duly appointed commissioner or staff officer of the religious society called the Salvation Army, chosen or commissioned by the society to solemnize marriages. R.S.O. 1897, c. 162, s. 2.

Elders of Farringdon Independent Church.

(*d*) Any elder for the time being of the church or congregation of religious people commonly called or known congregationally as "Farringdon Independent Church," who, from time to time, is chosen by such church or congregation for the solemnization of marriages. 4 Edw. VII. c. 10, s. 39.

Minister of the Brethren.

(*e*) Any recognized evangelist, teacher or elder for the time being of any congregation of Christians commonly called or known as "Brethren," who may be appointed by any such congregation for the solemnization of marriages, and whose appointment has previously been filed in the office of the Provincial Secretary. 6 Edw. VII. c. 19, s. 27.

Marriages solemnized by Quakers.

3. Every marriage duly solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid; and all the duties imposed by this Act, or by *The Vital Statistics Act*, upon a minister or clergyman, shall, with regard to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. R.S.O. 1897, c. 162, s. 3.

8 Edw. VII. c. 28.

LICENSE, CERTIFICATE OR PROCLAMATION REQUIRED.

Marriages not to be solemnized unless under license or certificate.

4.—(1) No minister, clergyman or other person shall solemnize any marriage, unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor or of his deputy, or by a certificate under this Act, unless

the intention of the persons to intermarry has been published as provided by subsection 2.

Or after proclamation of intention.

(2) Such intention shall be proclaimed once openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the persons has been in the habit of attending worship, or in some church, chapel, meeting-house or place of public worship of the congregation or religious body with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode; and where both the persons do not reside in the same local municipality, parish, circuit or pastoral charge, and the marriage is not authorized by license or certificate, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, being within Canada, where the other of the contracting parties has for the space of fifteen days immediately preceding had his or her usual place of abode; and where the proclamation last mentioned is required such marriage shall not be solemnized until there is delivered to the person proposing to solemnize it a certificate, Form 1, showing that such proclamation has been made.

Made on Sunday.

(3) Every such proclamation shall be made on a Sunday, immediately before the service begins or immediately after it ends, or at some intermediate part of the service.

Certificate of proclamation of intention.

(4) The certificate of proclamation shall be signed by the clergyman, minister, clerk, secretary or other person who actually proclaimed the same, and shall show the official position of the person who signs it. R.S.O. 1897, c. 162, s. 4.

Proclamation or license to lapse unless marriage takes place within three months.

5.—(1) No marriage shall be solemnized under the authority of any proclamation of intention to intermarry, unless such proclamation has been made at least one week previously, nor unless the marriage takes place within three months after the Sunday upon which the proclamation was made; nor shall a marriage be solemnized under the authority of any license or certificate unless within three months after the date thereof.

Hours during which marriages not to take place.

(2) No clergyman, minister or other person shall solemnize a marriage between the hours of 10 o'clock after noon and 6 o'clock before noon unless he is satisfied from evidence adduced to him that the proposed marriage is legal and

that exceptional circumstances exist which render its solemnization between those hours advisable.

Witnesses required.

(3) No clergyman, minister or other person shall solemnize a marriage without the presence of at least two adult witnesses, and two or more of such witnesses shall affix their names as witnesses to the record in the register prescribed by section 24.

Issuer of marriage licenses not to marry the parties.

(4) No clergyman, minister or other person who is an issuer of marriage licenses shall solemnize the marriage in any case in which he has issued the license or the certificate provided for by section 7 authorizing such marriage but this subsection shall not apply to any of the Provisional Judicial districts except Muskoka. R.S.O. 1897, c. 162, s. 5 (1-4).

License and certificates to be delivered to person solemnizing marriage.

(5) The certificate or license to marry or the certificate of proclamation, when such certificate is required, shall be left with the clergyman, minister or other person who solemnizes the marriage, and he shall forthwith after such solemnization endorse upon the certificate or license the date of the marriage and the names and descriptions of the witnesses, and thereupon forward such certificate or license to the Registrar-General. R.S.O. 1897, c. 162, s. 5 (5); 5 Edw. VII. c. 13, s. 15 (1).

Protection of clergymen solemnizing marriages in good faith.

6. No clergyman, minister or other person who solemnizes a marriage ceremony after banns have been published or a license or certificate has been issued under this Act in respect thereto, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless at the time when he performed the ceremony he was aware of the impediment. R.S.O. 1897, c. 162, s. 6.

Certificate in lieu of marriage license.

7. A certificate, Form 2, according to the circumstances of the case, may, at the option of the applicant, be substituted and shall have the same legal effect as a license. R.S.O. 1897, c. 162, s. 7.

ISSUE OF LICENSES AND CERTIFICATES.

Licenses and certificates, how issued.

8. Licenses and certificates shall be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may appoint for that purpose. R.S.O. 1897, c. 162, s. 8.

Validity of licenses and certificates.

9. Every license under the hand and seal of the Lieutenant-Governor or his deputy and every certificate signed

by the Provincial Secretary, or Assistant Provincial Secretary, for the purpose of the solemnization of a marriage, shall be and remain valid, notwithstanding that the Lieutenant-Governor or his deputy, or the Provincial Secretary, or the Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. R.S.O. 1897, c. 162, s. 19.

Unauthorized issue of licenses or certificates.

10. If any person issues any license or certificate for the solemnization of marriage without the authority of the Lieutenant-Governor in Council unless under the authority of section 11, he shall incur a penalty of $100 for every license or certificate so issued recoverable under *The Ontario Summary Convictions Act.* R.S.O. 1897, c 162, s. 10.

Penalty.

10 Edw. VII. c. 37.

APPOINTMENT OF DEPUTY ISSUERS.

Appointment of deputy-issuers of marriage licenses with approval of Mayor or Reeve.

11.—(1) An issuer of marriage licenses or certificates may with the approval, in writing, of the Mayor or Reeve of the local municipality wherein he resides, when prevented from acting by illness or accident, or where his temporary absence is contemplated, appoint by writing under his hand a deputy to act for him.

Powers of deputy-issuers.

(2) The deputy while so acting shall possess the powers and privileges, as to administering necessary oaths and otherwise, of the issuer appointing him.

Notice of appointment of deputy.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment.

Appointment of deputy where no Mayor or Reeve.

(4) Where there is no Mayor or Reeve to give the approval required by subsection 1, the issuer may without such consent, appoint such deputy, and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the issuer, and no irregularity in the appointment of a deputy shall affect the validity of a license or certificate issued by him. R.S.O. 1897, c. 162, s. 11.

How licenses to be signed by deputy.

(5) The deputy shall sign each license and certificate issued by him with the name of the issuer as well as his own name in the following manner:—"*A. B.—Issuer of Marriage Licenses, per C.D., Deputy-Issuer.*" R.S.O. 1897, c. 162, s. 12, *part.*

EFFECT OF IRREGULAR ISSUE OF LICENSE OR CERTIFICATE.

Irregularity in issue not to affect.

12. No irregularity in the issue of a license or certificate where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. R.S.O. 1897, c. 162, s. 12, *part.*

UNISSUED LICENSES OR CERTIFICATES.

Unissued licenses to be returned to Provincial Secretary.

13. Every issuer of licenses or certificates and every other person having unissued licenses or certificates in his possession, power, custody, or control, shall, whenever required so to do, transmit the same to the Provincial Secretary; and the property in all unissued licenses and certificates shall be and remain in His Majesty. R.S.O. 1897, c. 162, s. 13.

EXPENSES OF PROCURING LICENSES.

Expenses incident to procuring licenses.

14. All expenses incident to providing licenses and certificates shall be paid by the issuer thereof. R.S.O. 1897, c. 162, s. 14.

MARRIAGE OF PARTY UNDER 18 YEARS.

Consent required to marriage where one of the parties is under eighteen.

15.—(1) Where either of the parties to an intended marriage not a widower or a widow is under the age of eighteen years, the consent of the father, if living, or, if he be dead, of the mother, if living, or of a guardian, if any has been duly appointed, shall be required before the license is issued.

Consent to be produced before license issues.

(2) Where such consent is necessary, no license or certificate shall be issued without the production of the consent, and the issuer or deputy-issuer shall satisfy himself of the genuineness of the consent by satisfactory proof in addition to the affidavit required of one of the parties.

Where parents are dead and there is no guardian.

(3) In the case of a party under the age of eighteen years and not being a widower or a widow, if the father and mother are dead and there is no guardian duly appointed, the issuer or deputy-issuer, on being satisfied as to the facts, may grant the license or certificate.

If parents not resident in the Province.

(4) Where the parent whose consent is required, though living, is not a resident of Ontario, and is not in Ontario at the time of the application for a license or certificate, and the party under the age of eighteen years is and has been so resident for the next preceding twelve months, the issuer or deputy-issuer, on being satisfied by evidence of these facts,

may grant the license or certificate. R.S.O. 1897, c. 162, s. 15.

16. No license or certificate shall be issued to any person under the age of fourteen years, except where a marriage is shown to be necessary to prevent the illegitimacy of offspring, and a certificate to that effect is given by a legally qualified medical practitioner known to the issuer or deputy-issuer, and except in such a case no person shall celebrate the marriage ceremony in any case in which either of the contracting parties is under the age of fourteen years, to the knowledge or information of such person. R.S.O. 1897, c. 162, s. 16. *Part.*

No license to be issued or marriage to be celebrated where either party under fourteen.

PENALTY FOR MARRYING IDIOT OR INSANE PERSON.

17. If any minister, clergyman or other person solemnizes a marriage knowing or having reason to believe that either of the parties to it is an idiot or insane, he shall incur a penalty of $500, and shall also, in the discretion of the Court, be liable to imprisonment for any period not exceeding twelve months. R.S.O. 1897, c. 162, s. 16.

Insane or Idiot not to be married.

AFFIDAVIT FOR ISSUE OF LICENSE OR CERTIFICATE.

18.—(1) Before a license or certificate is issued, one of the parties to the intended marriage shall personally make an affidavit, Form 3, before the issuer or deputy-issuer which shall state:

Affidavit to be made by one of the parties before license granted.

(*a*) In what county or district it is intended that the marriage shall be solemnized, and in what city, town, village, or place therein; and

(*b*) That he or she believes there is no affinity, consanguinity, prior marriage, or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(*c*) That one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate had his or her usual place of abode within the county or district in which, for either municipal or judicial purposes, the local municipality or place in which the marriage is to be solemnized lies;

Or, if the county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has for the space of

fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode, that the reason for having the marriage solemnized in such place is not to evade due publicity or for any other improper purpose;

(*d*) The age of the deponent, and that the other contracting party is of the full age of eighteen years, or the age of such other contracting party, if under the age of eighteen years, as the case may be;

(*e*) The condition in life of each of the parties, whether bachelor, widower, spinster or widow, and

Facts showing whether consent is necessary.

(*f*) The facts necessary to enable the issuer or deputy-issuer to judge whether or not the required consent has been duly given in the case of any party under the age of eighteen years, or whether or not such consent is necessary. R.S.O. 1897, c. 162, s. 17.

Written consent to be produced and annexed to affidavit.

(2) Where a party who is not a widower or a widow is under the age of eighteen years, the written consent of the person whose consent to the marriage is required shall be produced and annexed to the affidavit, and its execution shall be verified by affidavit which shall be made before the issuer or deputy-issuer. R.S.O. 1897, c. 162, s. 18.

Prohibited degrees to be set forth in form of affidavit.

19.—(1) Upon the back or at the foot of the printed forms of affidavits to be made by the parties shall be printed a memorandum, Form 5, showing the degrees of affinity and consanguinity which bar or hinder the solemnization of marriage between them; and no affidavit shall be acted upon by the issuer or deputy-issuer which has not such memorandum printed thereon; and upon the back or at the foot of the certificates or licenses issued shall be printed such extracts from this Act as are necessary to show what persons are authorized to solemnize marriage in Ontario, or an epitome of the provisions in reference thereto.

Duty of issuer of licenses.

(2) The issuer or deputy-issuer, before administering the oath, shall see that the applicant is aware what degrees of affinity or consanguinity are a bar to the solemnization of marriage. R.S.O. 1897, c. 162, s. 19.

Degrees of affinity and consanguinity.

(3) The degrees of affinity and consanguinity within which if persons are related they are prohibited from contracting marriage with each other, as declared in and by the

Statute passed in the 28th year of His Majesty King Henry VIII., chapter 7, section 7, as modified by the Revised Statutes of Canada, 1906, chapter 105, are set forth in Schedule A. 28 Hy. VIII. c. 7, s. 7; Rev. Stat. Can. c. 105.

(4) If at any time hereafter changes are made in the law affecting the degrees of relationship with which marriage may not be lawfully contracted, the Lieutenant-Governor in Council may direct such changes to be made in Form 5, so as to make it comformable to the law for the time being. 2 Edw. VII. c. 23, s. 1. Changes in degrees provided for.

LICENSE NOT TO BE ISSUED IN CERTAIN CASES.

20.—(1) Where the person having authority to issue the license or certificate has personal knowledge that the facts are not as required by section 15, he shall not issue the license or certificate; and if he has reason to believe or suspect that the facts are not as so required, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the affidavit prescribed by section 17. When issuer has personal knowledge that proper consent not obtained.

(2) The issuer or deputy-issuer shall keep on record the affidavits or depositions proving the facts of which he is required to be satisfied before issuing a license or certificate. Evidence on which license issues to be kept.

(3) Every issuer or deputy-issuer of marriage licenses shall immediately upon issuing a marriage license or certificate, fill up on a form endorsed upon the affidavit prescribed by section 17 the particulars contained in Form 5, or such of them as he is then able to give, and shall forward the same forthwith to the Registrar-General. R.S.O. 1897, c. 162, s. 20, *part*. *Amended*. Particulars to be sent to Registrar-General.

21. Every issuer of marriage licenses shall, on making application to the Provincial Secretary for a new supply of licenses, certify that a complete return of every license issued by him or his deputy has been forwarded to the Registrar-General. R.S.O. 1897, c. 162, s. 20, *part*; 5 Edw. VII. c. 13, s. 15 (2). Certificate to be given on issuer applying for licenses.

FEES FOR LICENSE.

22. No fee shall be payable for a license or certificate, except the sum of $2, which the issuer of the license or certificate shall be entitled to retain for his own use; but the Lieutenant-Governor in Council may from time to time reduce the sum so payable. R.S.O. 1897, c. 162, s. 21. Fees for licenses or certificates.

MARRIAGE OUT OF CHURCH VALID.

Objections on grounds of place or hour of marriage.

23. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel, or within any particular hours. R.S.O. 1897, c. 162, s. 22.

MARRIAGE CERTIFICATES.

Certificate to be given by person solemnizing marriage when required.

24. Every clergyman, minister or other person who solemnizes a marriage, and the clerk or secretary of a society of Quakers, or of the meeting at which the marriage is solemnized, shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after proclamation of intention to intermarry; and the clergyman, minister, clerk or secretary may demand twenty-five cents for a certificate given by him from the person requiring it. R.S.O. 1897, c. 162, s. 23.

REGISTRATION OF MARRIAGES.

Marriages to be registered by person solemnizing.

25. Every clergyman, minister, or other person authorized to solemnize marriage shall, immediately after he has solemnized a marriage, enter in a register, to be kept by him for the purpose, unless a similar register is kept in the church at which he officiates, in which case the entries shall be made in that book, the particulars mentioned in Form 5, and shall authenticate the same by his signature. R.S.O. 1897, c. 162, s. 24.

Clergyman to apply for marriage register to clerk of municipality.

26.—(1) Every clergyman, minister or other person authorized to solemnize marriage, where a marriage register is not already possessed by any church or congregation over which he is placed or has charge, shall make application for a register to the clerk of the local municipality within which the church or congregation is situate, and the clerk shall thereupon supply such register at the cost of the municipality.

(2) One additional register may be supplied at the cost of the municipality to any clergyman, minister or other person authorized to solemnize marriage, and a register shall also, on application, be supplied at the like cost to any clergyman or minister in the municipality who is not in charge of a church or congregation.

(3) Every clergyman or minister in charge of a church or congregation in an unorganized township shall, upon a written application to be made by him to the Registrar-General, receive a register, to be supplied by the Registrar-General. R.S.O. 1897, c. 162, s. 25. In unorganized townships.

(As to returns to be made see *The Vital Statistics Act,* 8 Edw. VII. c. 28, s. 21.)

27. The register, by whomsoever furnished, shall be the property of the denomination or body to which the clergyman, minister or other person to whom it is delivered, belongs at the time of the delivery thereof, and where he is in charge of a particular congregation of such denomination, it shall belong to the trustees or other body in which the property of the church or meeting house used by such congregation for its ordinary services is vested. R.S.O. 1897, c. 162, s. 26. Property in registers.

COPIES OF ACT TO BE SUPPLIED ON REQUEST.

28. Printed copies of this Act shall be furnished in pamphlet form by the Clerks of the Peace, by mail if desired, post paid, to any person applying therefor, upon payment of ten cents for each copy, and the Clerks of the Peace may obtain from the King's Printer as many copies as they may require at the rate of fifty cents per dozen. R.S.O. 1897, c. 162, s. 27. Printed copies of this Act to be furnished.

CERTAIN MARRIAGES VALIDATED.

29. Any marriages which, before the 1st day of April, 1889, had been solemnized in this Province by clergymen or ministers duly ordained or appointed as such according to the rites and ceremonies of the churches to which they belong, or by commissioners or staff officers of the Salvation Army, between persons not under any legal disqualification for entering into the contract of matrimony are hereby declared to have been and to be lawful and valid marriages, so far as respects the civil rights in this Province of the parties or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature, notwithstanding that the person who solemnized any such marriage was not at the time a resident of this Province; Marriages heretofore solemnized by persons not resident in Ontario validated.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not, before the said date, been questioned in any suit or action; and Proviso.

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has since contracted matrimony according to law; and in such a case the validity of the marriage by a non-resident shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 28; 62 V. (2) c. 11, s. 17.

Certain marriages solemnized in Society of Friends before 4th May, 1891.

30. Any marriages which before the 4th day of May, 1891, had been solemnized in this Province according to the rites, usages and customs of the religious society called the Society of Friends, commonly called Quakers, between persons not under any legal disqualification for entering into the contract of matrimony, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in this Province, of the parties, or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature.

Proviso.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not been questioned in any suit or action before the tenth day of February, 1891; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage, and before the 4th day of May, 1891, contracted matrimony according to law; and in such case the validity of the marriage shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 29.

Marriages heretofore solemnized by elders of the Farringdon Independent Church validated.

31. Every marriage solemnized in this Province before the 26th day of April, 1904, according to the rites, usages and customs of the "Farringdon Independent Church," by an elder thereof, is hereby declared to have been and to be lawful and valid, so far as respects the civil rights in this Province of the parties and their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature;

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage and before that date contracted matrimony according to law, and in such case the validity of the marriage shall be determined as if this section had not been passed. 4 Edw. VII. c. 10, s. 40.

Certain marriages according to

32. Any marriages which, prior to the 1st of January, 1890, were solemnized according to the law of the Province

of Manitoba in that portion of the Province of Ontario lying west of the meridian of the confluence of the Ohio and Mississippi Rivers, between persons not under a legal disqualification to contract such marriage, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in this Province of the parties or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature. Manitoba law confirmed.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage contracted matrimony according to law and in such case the validity of the marriage shall be determined as if this section had not been enacted. Proviso.

Provided, further, that nothing in this section shall validate any marriage or alleged marriage which may have been contracted by one James Gordon Bennett, who died in the City of Winnipeg, in the Province of Manitoba, in the year 1904. 8 Edw. VII. c. 33, s. 40. Exception as to J. G. Bennett.

33. Every marriage heretofore or hereafter solemnized between persons not under a legal disqualification to contract such marriage shall, after three years from the time of the solemnization thereof, or upon the death of either of the parties before the expiry of such time, be deemed a valid marriage so far as respects the civil rights in this Province of the parties or their issue, and in respect of all matters within the jurisdiction of the Legislature of Ontario, notwithstanding that the clergyman, minister or other person who solemnized the marriage was not duly authorized to solemnize marriage, and notwithstanding any irregularity or insufficiency in the proclamation of intention to intermarry or in the issue of the license or certificate, or notwithstanding the entire absence of both. Certain marriages to be deemed valid after three years or on death of one of the parties.

Provided that the parties, after such solemnization, lived together and cohabited as man and wife, and that the validity of the marriage was not before such death or before the expiry of such three years questioned in any suit or action; and Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has before the death of the other and before the expiration of such three years contracted matrimony according to law, and in such case the validity of the marriage shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 30. Proviso.

HIGH COURT MAY DECLARE CERTAIN MARRIAGES INVALID.

Declaration of nullity of marriage.

34.—(1) Where a form of marriage has been or is gone through between persons either of whom is under the age of 18 years without the consent required by section 15, the High Court, notwithstanding that a license or certificate was granted and that the ceremony was performed by a person authorized by law to solemnize marriage shall have jurisdiction and power in an action brought by either party who was at the time of the ceremony under the age of 18 years, to declare and adjudge that a valid marriage was not effected or entered into.

Proviso.

Provided that such persons have not after the ceremony cohabited and lived together as man and wife, and that the action is brought before the person bringing it has attained the age of 19 years.

Saving as to marriages to prevent illegitimacy, etc.

(2) Nothing in this section shall affect the excepted cases mentioned in section 16 or apply where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof.

When Court not bound to grant relief.

(3) The High Court shall not be bound to grant relief in the cases provided for by this section where carnal intercourse has taken place between the parties before the ceremony.

Judgment not to be made by consent or in default of appearance or pleading.

(4) No declaration or adjudication that a valid marriage was not effected or entered into shall be made or pronounced under the authority of this section upon consent of parties, admissions, or in default of appearance or of pleading or otherwise than after a trial.

Evidence to be *viva voce* in open court.

(5) At every such trial the evidence shall be taken *viva voce* in open court, but nothing in this subsection shall prevent the use of the depositions of witnesses residing out of Ontario or of witnesses examined *de bene esse,* where, according to the practice of the Court, such depositions may be read in evidence.

Court may require examination of parties.

(6) The Court may, of its own motion, require both or either of the parties to be examined before the Court touching the matters in question in the action.

Notice to Attorney-General.

(7) No trial shall be had until after ten days' notice to the Attorney-General for Ontario.

Who may intervene at trial.

(8) The Attorney-General may intervene at the trial or at any stage of the proceedings and may adduce evidence,

examine and cross-examine witnesses in like manner as a party defendant, and shall have the same right of appeal from any such declaration or adjudication as a party defendant has. 7 Edw. VII. c. 23, s. 8; 9 Edw. VII. c. 62.

REPEAL.

35. The following Acts and parts of Acts are repealed: Repeal.
Chapter 162 of the Revised Statutes of 1897; section 17 of Chapter 11 of the Acts passed in the 2nd Session of the 62nd year of the reign of Her late Majesty Queen Victoria; Chapter 23 of the Acts passed in the 2nd year, sections 39 and 40 of Chapter 10 of the Acts passed in the 4th year, section 15 of Chapter 13 of the Acts passed in the 5th year, section 27 of Chapter 19 of the Acts passed in the 6th year, section 8 of Chapter 23 of the Acts passed in the 7th year, section 40 of Chapter 33 of the Acts passed in the 8th year, and Chapter 62 of the Acts passed in the 9th year of the reign of His late Majesty King Edward VII.

FORM 1.

CERTIFICATE OF PROCLAMATION OF INTENTION TO INTERMARRY.

I hereby certify that on Sunday, the day of , 19 , the intention of *A.B.*, of (*state residence*) and *C.D.*, of (*state residence*) to intermarry was duly proclaimed by me in Church, being the church in the (*state name of township or other local municipality or parish, circuit or pastoral charge*). I further certify that I verily believe the said *A.B.* (*or C.D.*) had his (*or* her) usual place of abode in the said (*township or other local municipality or parish, circuit or pastoral charge*) for the space of fifteen days immediately preceding the said Sunday.

Dated this day of , 19 .

Minister of Church.

R.S.O. 1897, c. 162, Sched. A.

FORM 2.

CERTIFICATE BEFORE MARRIAGE WITHOUT PROCLAMATION.

These are to certify that *A.B.*, of and *C.D.*, of being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A.B.* (*or C.D.*) has made oath, as required by law.

1. That he (*or* she) believes that there is no affinity, consanguinity, prior marriage, or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage, and

2. That said *A.B.* (*or C.D. or both, as the case may be*), has, (*or* have) had his (*or* her, *or* their) usual place of abode, for the space of fifteen days last past, within the city, (county *or* district) of namely, in the township (town *or* village) of in the said county (*or* district) of (*or where neither of the parties has resided in the county or district for such fifteen days.* That the reason for procuring the marriage to be solemnized in is not in order to evade due publicity or for any other improper purpose).

3. That the said *A.B.* and *C.D.* are of the full age of eighteen years.

[*Or* that *A.B. or C.D.* is a widower *or* widow; *or* is under the age of eighteen years, and that the consent of *E.D.*, whose consent to said marriage is required by law, has been obtained; *or* that the father of the said (*party under age*) is dead, and no guardian of the person of the said (*party*) has been appointed, and the mother of the said (*party*) is dead and there is no person having authority to give consent to said marriage (*as the case may be*).]

These are therefore to certify that the requirements of *The Marriage Act* have been complied with and such marriage may be solemnized in the County of (*naming the county or district within which it is intended that the marriage shall be solemnized*).

Given under my hand and seal at this day of 19 .

G.H.,
Issuer (*or* Deputy issuer) of Licenses.

Issued from the Office of the Provincial Secretary for the Province of Ontario this day of 19 .

K.L.
Provincial Secretary

R.S.O. 1897, c. 162, Sched. B.

FORM 3.

AFFIDAVIT.

I, *A.B.*, of , in the county (*or* district) of (*addition*) make oath and say as follows:—

1. I and *C.D.* of in the county (*or* district) of (*addition*) are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (*or* village, *etc.*) of in the county (*or* district) of

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, prior marriage or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I (*or* the said *C.D. or both, as the case may be*) have (*or* has) had since the day of 19 my (*or* his *or* her *or* our) usual place of abode within the municipality of in the said county (*or* district. *Or if neither of the parties has, for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode in the county or district in which it is intended that the marriage shall be solemnized, add as follows*:—The reason for procuring the marriage to be solemnized in is not in order to evade due publicity or for any other improper purpose).

4. I am of the age of years, and the said *C.D.* is of the full age of 18 years (*or* the said *C.D.* is of the age years or over).

5. I am a bachelor (*or* widower), and the said *C.D.* is a spinster (*or* widow).

6. (*If either party is under* 18 *and not a widower or widow, add*): *E.D.*, of , in the county of is the person whose consent to the said marriage is required by law, and the said *E.D.* consents to the said marriage. The paper writing hereto annexed marked "A" is the consent of the said *E.D.* to the said marriage, and the signature thereto is of the proper handwriting of *E.D.*

7. The said *E.D.* is the father of the said *C.D.* [(*or* the said *E.D.* is the mother [*or* guardian duly appointed] of the said *C.D.* and the father of the said *C.D.* is dead) (*or* the father and mother of the said *C.D.* are both dead and no guardian of the said *C.D.* has been *appointed*)].

A.B.

Sworn before me, etc.,
G.H.,
Issuer of Licenses.

[NOTE: The form will be varied as the circumstances of the case may require].

R.S.O. 1897, c. 162, Sched. D.

FORM 4.

REGISTER OF MARRIAGES.

	BRIDEGROOM.
His name.	
Age.	
Residence when married.	
Place of birth.	
Bachelor or Widower. (B. or W.)	
Occupation.	
Religious Denomination of Bridegroom.	
Names of Parents.	

	BRIDE.
Her name.	
Age.	
Residence when married.	
Place of birth.	
Spinster or Widow. (S. or W.)	
Religious Denomination of Bride.	
Names of Parents.	
Whether Married by License or Banns (L. or B.)	
SIGNATURES of Bridegroom	
of Bride	
of Witnesses,	
Residence	
Residence	

I certify the above named parties were married by me at , in the County of , this day of 19 .

Minister of, etc.

R.S.O. 1897, c. 162, Sched. E.

FORM 5.

Degrees of affinity and consanguinity which under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his	A woman may not marry her
1. Grandmother.	1. Grandfather.
2. Grandfather's wife.	2. Grandmother's husband.
3. Wife's grandmother.	3. Husband's grandfather.
4. Aunt.	4. Uncle.
5. Uncle's wife.	5. Aunt's husband.*
6. Wife's aunt.	6. Husband's uncle.
7. Mother.	7. Father.
8. Step mother.	8. Step father.
9. Wife's mother.	9. Husband's father.
10. Daughter.	10. Son.
11. Wife's daughter.	11. Husband's son.
12. Son's wife.	12. Daughter's husband.
13. Sister.	13. Brother.
14. Granddaughter.	14. Grandson.
15. Grandson's wife.	15. Granddaughter's husband.
16. Wife's granddaughter.	16. Husband's grandson.
17. Niece.	17. Nephew.
18. Nephew's wife.	18. Niece's husband.
19. Wife's niece.*	19. Husband's nephew.
20. Brother's wife.	20. Husband's brother.

The relationships set forth in this table include all such relationships whether by the whole or half blood, and whether legitimate or illegitimate.

*By The Revised Statutes of Canada, 1906, c. 105, it is enacted that "All laws prohibiting marriage between a man and the daughter of his deceased wife's sister where no law relating to consanguinity is violated, are hereby repealed both as to past and future marriages."

SCHEDULE A.

And furthermore since many inconveniences have fallen as well within this Realm as others by reason of marrying within the degrees of marriages prohibited by God's law, that is to say: The son to marry the mother or the step mother carnally known by his father; the brother the sister, the father his son's daughter, or his daughter's daughter, nor shall the son marry the daughter of his father procreate and born by his step mother, nor shall the son marry his aunt, being his father's or mother's sister, nor marry his uncle's wife, carnally known by his uncle, nor shall the father marry his son's wife, carnally known by his son, nor the brother marry his brother's wife carnally known by his brother; nor shall any man married and carnally knowing his wife marry his wife's daughter nor his wife's son's daughter, nor his wife's daughter's daughter . . . . And further if it chance any man shall know carnally any woman that then all and singular persons being in any degree of consanguinity or affinity (as is above mentioned) to any of the parties so carnally offending, shall be deemed and adjudged to be within the cases and limits of the said prohibitions of marriage.

2 Edw. VII. c. 23, s. 2, Sched. G.

No. 94

3rd Session, 12th Legislature.
1 George V., 1911.

BILL.

An Act respecting the Solemnization of Marriage.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 94. 1911

BILL

An Act respecting the Solemnization of Marriage.

SHORT TITLE, s. 1.
MINISTERS OF ALL DENOMINATIONS MAY SOLEMNIZE MARRIAGES, s. 2.
MARRIAGE BY QUAKERS, s. 3.
MARRIAGES TO BE EITHER BY LICENSE OR CERTIFICATE, OR BY BANNS, AND WITHIN CERTAIN HOURS, ss. 4, 5.
PROTECTION OF MINISTERS, s. 6.
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PERSONS WHOSE CONSENT REQUIRED TO THE MARRIAGE OF A MINOR, s. 15.
CERTAIN MARRIAGES PROHIBITED, s. 16.
PENALTY FOR MARRYING IDIOT OR INSANE PERSON, s. 17.
AFFIDAVIT REQUIRED TO OBTAIN A LICENSE OR CERTIFICATE, s. 18.
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LICENSE, ETC., NOT TO ISSUE IF ISSUER KNOWS OR SUSPECTS THAT AFFIDAVIT IS FALSE, ETC., s. 20.
RETURN TO PROVINCIAL SECRETARY, s. 21.
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MARRIAGE NEED NOT BE IN A CHURCH, NOR INVALID BECAUSE NOT WITHIN PARTICULAR HOURS, s. 23.
CERTIFICATE OF MARRIAGE TO BE GIVEN BY MINISTER IF REQUIRED, s. 24.
REGISTRATION AND REGISTERS, ss. 25-27.
COPIES OF ACT TO BE SUPPLIED, s. 28.
CERTAIN MARRIAGES DECLARED VALID, ss. 29-33.
POWER TO DECLARE CERTAIN MARRIAGES INVALID, s. 34-35.
REPEAL, s. 36.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Marriage Act.* R.S.O. 1897, c. 162, s. 1. Short title.

WHO MAY SOLEMNIZE MARRIAGES.

2. The following persons, being men and resident in Canada, may solemnize marriage between persons not under a legal disqualification to contract such marriage: Who may solemnize marriage in Ontario.

(*a*) The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the church or denomination to which they respectively belong; Ministers and clergymen.

Elders, etc., Congregations of God and Disciples of Christ.

(*b*) Any elder, evangelist or missionary for the time being of any church or congregation of the religious people commonly called or known congregationally as "Congregations of God" or "congregations of Christ," and individually as "Disciples of Christ," who from time to time is chosen by any such congregation for the solemnization of marriages;

Officers of Salvation Army.

(*c*) Any duly appointed commissioner or staff officer of the religious society called the Salvation Army, chosen or commissioned by the society to solemnize marriages. R.S.O. 1897, c. 162, s. 2.

Elders of Farringdon Independent Church.

(*d*) Any elder for the time being of the church or congregation of religious people commonly called or known congregationally as "Farringdon Independent Church," who, from time to time, is chosen by such church or congregation for the solemnization of marriages. 4 Edw. VII. c. 10, s. 39.

Minister of the Brethren.

(*e*) Any recognized evangelist, teacher or elder for the time being of any congregation of Christians commonly called or known as "Brethren," who may be appointed by any such congregation for the solemnization of marriages, and whose appointment has previously been filed in the office of the Provincial Secretary. 6 Edw. VII. c. 19, s. 27.

Marriages solemnized by Quakers.

3. Every marriage duly solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid; and all the duties imposed by this Act, or by *The Vital Statistics Act*, upon a minister or clergyman, shall, with regard to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. R.S.O. 1897, c. 162, s. 3.

8 Edw. VII. c. 28.

LICENSE, CERTIFICATE OR PROCLAMATION REQUIRED.

Marriages not to be solemnized unless under license or certificate.

4.—(1) No minister, clergyman or other person shall solemnize any marriage, unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor or of his deputy, or by a certificate under this Act, unless

the intention of the persons to intermarry has been published as provided by subsection 2.

Or after proclamation of intention.

(2) Such intention shall be proclaimed once openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the persons has been in the habit of attending worship, or in some church, chapel, meeting-house or place of public worship of the congregation or religious body with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode; and where both the persons do not reside in the same local municipality, parish, circuit or pastoral charge, and the marriage is not authorized by license or certificate, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, being within Canada, where the other of the contracting parties has for the space of fifteen days immediately preceding had his or her usual place of abode; and where the proclamation last mentioned is required such marriage shall not be solemnized until there is delivered to the person proposing to solemnize it a certificate, Form 1, showing that such proclamation has been made.

Made on Sunday.

(3) Every such proclamation shall be made on a Sunday, immediately before the service begins or immediately after it ends, or at some intermediate part of the service.

Certificate of proclamation of intention.

(4) The certificate of proclamation shall be signed by the clergyman, minister, clerk, secretary or other person who actually proclaimed the same, and shall show the official position of the person who signs it. R.S.O. 1897, c. 162, s. 4.

Proclamation or license to lapse unless marriage takes place within three months.

5.—(1) No marriage shall be solemnized under the authority of any proclamation of intention to intermarry, unless such proclamation has been made at least one week previously, nor unless the marriage takes place within three months after the Sunday upon which the proclamation was made; nor shall a marriage be solemnized under the authority of any license or certificate unless within three months after the date thereof.

Hours during which marriages not to take place.

(2) No clergyman, minister or other person shall solemnize a marriage between the hours of 10 o'clock after noon and 6 o'clock before noon unless he is satisfied from evidence adduced to him that the proposed marriage is legal and

that exceptional circumstances exist which render its solemnization between those hours advisable.

Witnesses required.

(3) No clergyman, minister or other person shall solemnize a marriage without the presence of at least two adult witnesses, and two or more of such witnesses shall affix their names as witnesses to the record in the register prescribed by section 24.

Issuer of marriage licenses not to marry the parties.

(4) No clergyman, minister or other person who is an issuer of marriage licenses shall solemnize the marriage in any case in which he has issued the license or the certificate provided for by section 7 authorizing such marriage but this subsection shall not apply to any of the Provisional Judicial districts except Muskoka. R.S.O. 1897, c. 162, s. 5 (1-4).

License and certificates to be delivered to person solemnizing marriage.

(5) The certificate or license to marry or the certificate of proclamation, when such certificate is required, shall be left with the clergyman, minister or other person who solemnizes the marriage, and he shall forthwith after such solemnization endorse upon the certificate or license the date of the marriage and the names and descriptions of the witnesses, and thereupon forward such certificate or license to the Registrar-General. R.S.O. 1897, c. 162, s. 5 (5); 5 Edw. VII. c. 13, s. 15 (1).

Protection of clergymen solemnizing marriages in good faith.

6. No clergyman, minister or other person who solemnizes a marriage ceremony after banns have been published or a license or certificate has been issued under this Act in respect thereto, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless at the time when he performed the ceremony he was aware of the impediment. R.S.O. 1897, c. 162, s. 6.

Certificate in lieu of marriage license.

7. A certificate, Form 2, according to the circumstances of the case, may, at the option of the applicant, be substituted and shall have the same legal effect as a license. R.S.O. 1897, c. 162, s. 7.

Issue of Licenses and Certificates.

Licenses and certificates, how issued.

8. Licenses and certificates shall be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may appoint for that purpose. R.S.O. 1897, c. 162, s. 8.

Validity of licenses and certificates.

9. Every license under the hand and seal of the Lieutenant-Governor or his deputy and every certificate signed

by the Provincial Secretary, or Assistant Provincial Secretary, for the purpose of the solemnization of a marriage, shall be and remain valid, notwithstanding that the Lieutenant-Governor or his deputy, or the Provincial Secretary, or the Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. R.S.O. 1897, c. 162, s. 19.

Unauthorized issue of licenses or certificates.

10. If any person issues any license or certificate for the solemnization of marriage without the authority of the Lieutenant-Governor in Council unless under the authority of section 11, he shall incur a penalty of $100 for every license or certificate so issued recoverable under *The Ontario Summary Convictions Act.* R.S.O. 1897, c 162, s. 10.

Penalty.

10 Edw. VII c. 37.

Appointment of Deputy Issuers.

Appointment of deputy-issuers of marriage licenses with approval of Mayor or Reeve.

11.—(1) An issuer of marriage licenses or certificates may with the approval, in writing, of the Mayor or Reeve of the local municipality wherein he resides, when prevented from acting by illness or accident, or where his temporary absence is contemplated, appoint by writing under his hand a deputy to act for him.

Powers of deputy-issuers.

(2) The deputy while so acting shall possess the powers and privileges, as to administering necessary oaths and otherwise, of the issuer appointing him.

Notice of appointment of deputy.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment.

Appointment of deputy where no Mayor or Reeve.

(4) Where there is no Mayor or Reeve to give the approval required by subsection 1, the issuer may without such consent, appoint such deputy, and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the issuer, and no irregularity in the appointment of a deputy shall affect the validity of a license or certificate issued by him. R.S.O. 1897, c. 162, s. 11.

How licenses to be signed by deputy.

(5) The deputy shall sign each license and certificate issued by him with the name of the issuer as well as his own name in the following manner:—"*A. B.—Issuer of Marriage Licenses, per C.D., Deputy-Issuer.*" R.S.O. 1897, c. 162, s. 12, *part.*

Effect of Irregular Issue of License or Certificate.

Irregularity in issue not to affect.

12. No irregularity in the issue of a license or certificate where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. R.S.O. 1897, c. 162, s. 12, *part.*

Unissued Licenses or Certificates.

Unissued licenses to be returned to Provincial Secretary.

13. Every issuer of licenses or certificates and every other person having unissued licenses or certificates in his possession, power, custody, or control, shall, whenever required so to do, transmit the same to the Provincial Secretary; and the property in all unissued licenses and certificates shall be and remain in His Majesty. R.S.O. 1897, c. 162, s. 13.

Expenses of Procuring Licenses.

Expenses incident to procuring licenses.

14. All expenses incident to providing licenses and certificates shall be paid by the issuer thereof. R.S.O. 1897, c. 162, s. 14.

MARRIAGE OF PARTY UNDER 18 YEARS.

Consent required to marriage where one of the parties is under eighteen.

15.—(1) Where either of the parties to an intended marriage not a widower or a widow is under the age of eighteen years, the consent of the father, if living, or, if he be dead, of the mother, if living, or of a guardian, if any has been duly appointed, shall be required before the license is issued, ☞or before the proclamation of the intention of the parties to intermarry is made.☜

Consent to be produced before license issues.

(2) Where such consent is necessary, no license or certificate shall be issued without the production of the consent, and the issuer or deputy-issuer shall satisfy himself of the genuineness of the consent by satisfactory proof in addition to the affidavit required of one of the parties.

Where parents are dead and there is no guardian.

(3) In the case of a party under the age of eighteen years and not being a widower or a widow, if the father and mother are dead and there is no guardian duly appointed, the issuer or deputy-issuer, on being satisfied as to the facts, may grant the license or certificate.

If parents not resident in the Province.

(4) Where the parent whose consent is required, though living, is not a resident of Ontario, and is not in Ontario at the time of the application for a license or certificate, and the party under the age of eighteen years is and has been so resident for the next preceding twelve months, the issuer or deputy-issuer, on being satisfied by evidence of these facts,

may grant the license or certificate. R.S.O. 1897, c. 162, s. 15.

No license to be issued or marriage to be celebrated where either party under fourteen.

16. No license or certificate shall be issued to any person under the age of fourteen years, except where a marriage is shown to be necessary to prevent the illegitimacy of offspring, and a certificate to that effect is given by a legally qualified medical practitioner known to the issuer or deputy-issuer, and except in such a case no person shall celebrate the marriage ceremony in any case in which either of the contracting parties is under the age of fourteen years, to the knowledge or information of such person. R.S.O. 1897, c. 162, s. 16. *Part.*

PENALTY FOR MARRYING IDIOT OR INSANE PERSON.

Insane or Idiot not to be married.

17. If any minister, clergyman or other person solemnizes a marriage knowing or having reason to believe that either of the parties to it is an idiot or insane, he shall incur a penalty of $500, and shall also, in the discretion of the Court, be liable to imprisonment for any period not exceeding twelve months. R.S.O. 1897, c. 162, s. 16, *amended.*

AFFIDAVIT FOR ISSUE OF LICENSE OR CERTIFICATE.

Affidavit to be made by one of the parties before license granted.

18.—(1) Before a license or certificate is issued, one of the parties to the intended marriage shall personally make an affidavit, Form 3, before the issuer or deputy-issuer which shall state:

(*a*) In what county or district it is intended that the marriage shall be solemnized, and in what city, town, village, or place therein; and

(*b*) That he or she believes there is no affinity, consanguinity, prior marriage, or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(*c*) That one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate had his or her usual place of abode within the county or district in which, for either municipal or judicial purposes, the local municipality or place in which the marriage is to be solemnized lies;

Or, if the county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has for the space of

fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode, that the reason for having the marriage solemnized in such place is not to evade due publicity or for any other improper purpose;

(*d*) The age of the deponent, and that the other contracting party is of the full age of eighteen years, or the age of such other contracting party, if under the age of eighteen years, as the case may be;

(*e*) The condition in life of each of the parties, whether bachelor, widower, spinster or widow, and

Facts showing whether consent is necessary.

(*f*) The facts necessary to enable the issuer or deputy-issuer to judge whether or not the required consent has been duly given in the case of any party under the age of eighteen years, or whether or not such consent is necessary. R.S.O. 1897, c. 162, s. 17.

Written consent to be produced and annexed to affidavit.

(2) Where a party who is not a widower or a widow is under the age of eighteen years, the written consent of the person whose consent to the marriage is required shall be produced and annexed to the affidavit, and its execution shall be verified by affidavit which shall be made before the issuer or deputy-issuer. R.S.O. 1897, c. 162, s. 18.

Prohibited degrees to be set forth in form of affidavit.

19.—(1) Upon the back or at the foot of the printed forms of affidavits to be made by the parties shall be printed a memorandum, Form 5, showing the degrees of affinity and consanguinity which bar or hinder the solemnization of marriage between them; and no affidavit shall be acted upon by the issuer or deputy-issuer which has not such memorandum printed thereon; and upon the back or at the foot of the certificates or licenses issued shall be printed such extracts from this Act as are necessary to show what persons are authorized to solemnize marriage in Ontario, or an epitome of the provisions in reference thereto.

Duty of issuer of licenses.

(2) The issuer or deputy-issuer, before administering the oath, shall see that the applicant is aware what degrees of affinity or consanguinity are a bar to the solemnization of marriage. R.S.O. 1897, c. 162, s. 19.

Degrees of affinity and consanguinity.

(3) The degrees of affinity and consanguinity within which if persons are related they are prohibited from contracting marriage with each other, as declared in and by the

Statute passed in the 28th year of His Majesty King Henry VIII., chapter 7, section 7, as modified by the Revised Statutes of Canada, 1906, chapter 105, are set forth in Schedule A. 28 Hy. VIII. c. 7, s. 7; Rev. Stat. Can. c. 105.

(4) If at any time hereafter changes are made in the law affecting the degrees of relationship within which marriage may not be lawfully contracted, the Lieutenant-Governor in Council may direct such changes to be made in Form 5, so as to make it comformable to the law for the time being. 2 Edw. VII. c. 23, s. 1. Changes in degrees provided for.

LICENSE NOT TO BE ISSUED IN CERTAIN CASES.

20.—(1) Where the person having authority to issue the license or certificate has personal knowledge that the facts are not as required by section 15, he shall not issue the license or certificate; and if he has reason to believe or suspect that the facts are not as so required, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the affidavit prescribed by section 17. When issuer has personal knowledge that proper consent not obtained.

(2) The issuer or deputy-issuer shall keep on record the affidavits or depositions proving the facts of which he is required to be satisfied before issuing a license or certificate. Evidence on which license issues to be kept.

(3) Every issuer or deputy-issuer of marriage licenses shall immediately upon issuing a marriage license or certificate, fill up on a form endorsed upon the affidavit prescribed by section 17 the particulars contained in Form 5, or such of them as he is then able to give, and shall forward the same forthwith to the Registrar-General. R.S.O. 1897, c. 162, s. 20, *part.* *Amended.* Particulars to be sent to Registrar-General.

21. Every issuer of marriage licenses shall, on making application to the Provincial Secretary for a new supply of licenses, certify that a complete return of every license issued by him or his deputy has been forwarded to the Registrar-General. R.S.O. 1897, c. 162, s. 20, *part;* 5 Edw. VII. c. 13, s. 15 (2). Certificate to be given on issuer applying for licenses.

FEES FOR LICENSE.

22. No fee shall be payable for a license or certificate, except the sum of $2, which the issuer of the license or certificate shall be entitled to retain for his own use; but the Lieutenant-Governor in Council may from time to time reduce the sum so payable. R.S.O. 1897, c. 162, s. 21. Fees for licenses or certificates.

MARRIAGE OUT OF CHURCH VALID.

Objections on grounds of place or hour of marriage.

23. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel, or within any particular hours. R.S.O. 1897, c. 162, s. 22.

MARRIAGE CERTIFICATES.

Certificate to be given by person solemnizing marriage when required.

24. Every clergyman, minister or other person who solemnizes a marriage, and the clerk or secretary of a society of Quakers, or of the meeting at which the marriage is solemnized, shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after proclamation of intention to intermarry; and the clergyman, minister, clerk or secretary may demand twenty-five cents for a certificate given by him from the person requiring it. R.S.O. 1897, c. 162, s. 23.

REGISTRATION OF MARRIAGES.

Marriages to be registered by person solemnizing.

25. Every clergyman, minister, or other person authorized to solemnize marriage shall, immediately after he has solemnized a marriage, enter in a register, to be kept by him for the purpose, unless a similar register is kept in the church at which he officiates, in which case the entries shall be made in that book, the particulars mentioned in Form 4, and shall authenticate the same by his signature. R.S.O. 1897, c. 162, s. 24.

Clergyman to apply for marriage register to clerk of municipality.

26.—(1) Every clergyman, minister or other person authorized to solemnize marriage, where a marriage register is not already possessed by any church or congregation over which he is placed or has charge, shall make application for a register to the clerk of the local municipality within which the church or congregation is situate, and the clerk shall thereupon supply such register at the cost of the municipality.

(2) One additional register may be supplied at the cost of the municipality to any clergyman, minister or other person authorized to solemnize marriage, and a register shall also, on application, be supplied at the like cost to any clergyman or minister in the municipality who is not in charge of a church or congregation.

(3) Every clergyman or minister in charge of a church or congregation in an unorganized township shall, upon a written application to be made by him to the Registrar-General, receive a register, to be supplied by the Registrar-General. R.S.O. 1897, c. 162, s. 25, *amended.* In unorganized townships.

(As to returns to be made see *The Vital Statistics Act,* 8 Edw. VII. c. 28, s. 21.)

27. The register, by whomsoever furnished, shall be the property of the denomination or body to which the clergyman, minister or other person to whom it is delivered belongs at the time of the delivery thereof, and where he is in charge of a particular congregation of such denomination, it shall belong to the trustees or other body in which the property of the church or meeting house used by such congregation for its ordinary services is vested. R.S.O. 1897, c. 162, s. 26. Property in registers.

COPIES OF ACT TO BE SUPPLIED ON REQUEST.

28. Printed copies of this Act shall be furnished in pamphlet form by the Clerks of the Peace, by mail if desired, post paid, to any person applying therefor, upon payment of ten cents for each copy, and the Clerks of the Peace may obtain from the King's Printer as many copies as they may require at the rate of fifty cents per dozen. R.S.O. 1897, c. 162, s. 27. Printed copies of this Act to be furnished.

CERTAIN MARRIAGES VALIDATED.

29. Any marriages which, before the 1st day of April, 1889, had been solemnized in this Province by clergymen or ministers duly ordained or appointed as such according to the rites and ceremonies of the churches to which they belong, or by commissioners or staff officers of the Salvation Army, between persons not under any legal disqualification for entering into the contract of matrimony are hereby declared to have been and to be lawful and valid marriages, so far as respects the civil rights in this Province of the parties or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature, notwithstanding that the person who solemnized any such marriage was not at the time a resident of this Province; Marriages heretofore solemnized by persons not resident in Ontario validated.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not, before the said date, been questioned in any suit or action; and Proviso.

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has since contracted matrimony according to law; and in such a case the validity of the marriage by a non-resident shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 28; 62 V. (2) c. 11, s. 17.

Certain marriages solemnized in Society of Friends before 4th May, 1891.

30. Any marriages which before the 4th day of May, 1891, had been solemnized in this Province according to the rites, usages and customs of the religious society called the Society of Friends, commonly called Quakers, between persons not under any legal disqualification for entering into the contract of matrimony, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in this Province, of the parties, or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature.

Proviso.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not been questioned in any suit or action before the tenth day of February, 1891; and

Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage, and before the 4th day of May, 1891, contracted matrimony according to law; and in such case the validity of the marriage shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 29.

Marriages heretofore solemnized by elders of the Farringdon Independent Church validated.

31. Every marriage solemnized in this Province before the 26th day of April, 1904, according to the rites, usages and customs of the "Farringdon Independent Church," by an elder thereof, is hereby declared to have been and to be lawful and valid, so far as respects the civil rights in this Province of the parties and their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature;

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage and before that date contracted matrimony according to law, and in such case the validity of the marriage shall be determined as if this section had not been passed. 4 Edw. VII. c. 10, s. 40.

Certain marriages according to

32. Any marriages which, prior to the 1st of January, 1890, were solemnized according to the law of the Province

of Manitoba in that portion of the Province of Ontario lying west of the meridian of the confluence of the Ohio and Mississippi Rivers, between persons not under a legal disqualification to contract such marriage, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in this Province of the parties or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature. Manitoba law confirmed.

Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not theretofore been questioned in any suit or action; and Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage contracted matrimony according to law and in such case the validity of the marriage shall be determined as if this section had not been enacted. Proviso.

Provided, further, that nothing in this section shall validate any marriage or alleged marriage which may have been contracted by one James Gordon Bennett, who died in the City of Winnipeg, in the Province of Manitoba, in the year 1904. 8 Edw. VII. c. 33, s. 40. Exception as to J. G. Bennett.

33. Every marriage heretofore or hereafter solemnized between persons not under a legal disqualification to contract such marriage shall, after three years from the time of the solemnization thereof, or upon the death of either of the parties before the expiry of such time, be deemed a valid marriage so far as respects the civil rights in this Province of the parties or their issue, and in respect of all matters within the jurisdiction of the Legislature of Ontario, notwithstanding that the clergyman, minister or other person who solemnized the marriage was not duly authorized to solemnize marriage, and notwithstanding any irregularity or insufficiency in the proclamation of intention to intermarry or in the issue of the license or certificate, or notwithstanding the entire absence of both. Certain marriages to be deemed valid after three years or on death of one of the parties.

Provided that the parties, after such solemnization, lived together and cohabited as man and wife, and that the validity of the marriage was not before such death or before the expiry of such three years questioned in any suit or action; and Proviso.

Provided, further, that nothing in this section shall make valid any such marriage in case either of the parties thereto has before the death of the other and before the expiration of such three years contracted matrimony according to law, and in such case the validity of the marriage shall be determined as if this section had not been passed. R.S.O. 1897, c. 162, s. 30. Proviso.

HIGH COURT MAY DECLARE CERTAIN MARRIAGES INVALID.

Declaration of nullity of marriage.

34.—(1) Where a form of marriage has been or is gone through between persons either of whom is under the age of 18 years without the consent required by section 15, ☞ in the case of a license, or where, without a similar consent in fact, such form of marriage has been or is gone through between such persons after a proclamation of their intention to intermarry, ☞ the High Court, notwithstanding that a license or certificate was granted ☞ or that such proclamation was made ☞ and that the ceremony was performed by a person authorized by law to solemnize marriage shall have jurisdiction and power in an action brought by either party who was at the time of the ceremony under the age of 18 years, to declare and adjudge that a valid marriage was not effected or entered into.

Proviso.

Provided that such persons have not after the ceremony cohabited and lived together as man and wife, and that the action is brought before the person bringing it has attained the age of 19 years.

Saving as to marriages to prevent illegitimacy, etc.

(2) Nothing in this section shall affect the excepted cases mentioned in section 16 or apply where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof.

When Court not bound to grant relief.

(3) The High Court shall not be bound to grant relief in the cases provided for by this section where carnal intercourse has taken place between the parties before the ceremony. *7 Edw. VII., c. 23, s. 8.*

Judgment not to be made by consent or in default of appearance or pleading.

35.—(1) No declaration or adjudication that a valid marriage was not effected or entered into shall *in any case* be made or pronounced upon consent of parties, admissions, or in default of appearance or of pleading or otherwise than after a trial.

Evidence to be *viva voce* in open court.

(2) At every such trial the evidence shall be taken *viva voce* in open court, but nothing in this subsection shall prevent the use of the depositions of witnesses residing out of Ontario or of witnesses examined *de bene esse,* where, according to the practice of the Court, such depositions may be read in evidence.

Court may require examination of parties.

(3) The Court may, of its own motion, require both or either of the parties to be examined before the Court touching the matters in question in the action.

Notice to Attorney-General.

(4) No trial shall be had until after ten days' notice to the Attorney-General for Ontario.

(5) The Attorney-General may intervene at the trial or at any stage of the proceedings and may adduce evidence, examine and cross-examine witnesses in like manner as a party defendant, and shall have the same right of appeal from any such declaration or adjudication as a party defendant has. 9 Edw. VII., c. 62. Who may intervene at trial.

REPEAL.

36. The following Acts and parts of Acts are repealed: Chapter 162 of the Revised Statutes of 1897; section 17 of Chapter 11 of the Acts passed in the 2nd Session of the 62nd year of the reign of Her late Majesty Queen Victoria; Chapter 23 of the Acts passed in the 2nd year, sections 39 and 40 of Chapter 10 of the Acts passed in the 4th year, section 15 of Chapter 13 of the Acts passed in the 5th year, section 27 of Chapter 19 of the Acts passed in the 6th year, section 8 of Chapter 23 of the Acts passed in the 7th year, section 40 of Chapter 33 of the Acts passed in the 8th year, and Chapter 62 of the Acts passed in the 9th year of the reign of His late Majesty King Edward VII. Repeal.

☞This Act shall come into force on the day of 1911.☜

FORM 1.

CERTIFICATE OF PROCLAMATION OF INTENTION TO INTERMARRY.

I hereby certify that on Sunday, the day of , 19 , the intention of *A.B.*, of (*state residence*) and *C.D.*, of (*state residence*) to intermarry was duly proclaimed by me in Church, being the church in the (*state name of township or other local municipality or parish, circuit or pastoral charge*). I further certify that I verily believe the said *A.B.* (*or C.D.*) had his (*or* her) usual place of abode in the said (*township or other local municipality or parish, circuit or pastoral charge*) for the space of fifteen days immediately preceding the said Sunday.

Dated this day of , 19 .

Minister of Church.

R.S.O. 1897, c. 162, Sched. A.

FORM 2.

CERTIFICATE BEFORE MARRIAGE WITHOUT PROCLAMATION.

These are to certify that *A.B.*, of and *C.D.*, of being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A.B.* (*or C.D.*) has made oath, as required by law.

1. That he (*or* she) believes that there is no affinity, consanguinity, prior marriage, or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage, and

2. That said *A.B.* (*or C.D. or both, as the case may be*), has, (*or* have) had his (*or* her, *or* their) usual place of abode, for the space of fifteen days last past, within the city, (county *or* district) of namely, in the township (town *or* village) of in the said county (*or* district) of (*or where neither of the parties has resided in the county or district for such fifteen days.* That the reason for procuring the marriage to be solemnized in is not in order to evade due publicity or for any other improper purpose).

3. That the said *A.B.* and *C.D.* are of the full age of eighteen years.

[*Or* that *A.B. or C.D.* is a widower *or* widow; *or* is under the age of eighteen years, and that the consent of *E.D.*, whose consent to said marriage is required by law, has been obtained; *or* that the father of the said (*party under age*) is dead, and no guardian of the person of the said (*party*) has been appointed, and the mother of the said (*party*) is dead and there is no person having authority to give consent to said marriage (*as the case may be*).]

These are therefore to certify that the requirements of *The Marriage Act* have been complied with and such marriage may be solemnized in the County of (*naming the county or district within which it is intended that the marriage shall be solemnized*).

Given under my hand and seal at this day of 19 .

G.H.,
Issuer (*or* Deputy issuer) of Licenses.

Issued from the Office of the Provincial Secretary for the Province of Ontario this day of 19 .

K.L.
Provincial Secretary

R.S.O. 1897, c. 162, Sched. B.

FORM 3.

AFFIDAVIT.

I, *A.B.*, of , in the county (*or* district) of (*addition*) make oath and say as follows:—

1. I and *C.D.* of in the county (*or* district) of (*addition*) are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (*or* village, *etc.*) of in the county (*or* district) of

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, prior marriage or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I (*or* the said *C.D. or both, as the case may be*) have (*or* has) had since the day of 19 my (*or* his *or* her *or* our) usual place of abode within the municipality of in the said county (*or* district. *Or if neither of the parties has, for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode in the county or district in which it is intended that the marriage shall be solemnized, add as follows*:—The reason for procuring the marriage to be solemnized in is not in order to evade due publicity or for any other improper purpose).

4. I am of the age of years, and the said *C.D.* is of the full age of 18 years (*or* the said *C.D.* is of the age years or over).

5. I am a bachelor (*or* widower), and the said *C.D.* is a spinster (*or* widow).

6. (*If either party is under* 18 *and not a widower or widow, add*): *E.D.*, of , in the county of is the person whose consent to the said marriage is required by law, and the said *E.D.* consents to the said marriage. The paper writing hereto annexed marked "A" is the consent of the said *E.D.* to the said marriage, and the signature thereto is of the proper handwriting of *E.D.*

7. The said *E.D.* is the father of the said *C.D.* [(*or* the said *E.D.* is the mother [*or* guardian duly appointed] of the said *C.D.* and the father of the said *C.D.* is dead) (*or* the father and mother of the said *C.D.* are both dead and no guardian of the said *C.D.* has been *appointed*)].

A.B.

Sworn before me, etc.,
G.H.,
Issuer of Licenses.

[NOTE: The form will be varied as the circumstances of the case may require].

R.S.O. 1897, c. 162, Sched. D.

FORM 4.

REGISTER OF MARRIAGES.

	BRIDEGROOM.
His name.	
Age.	
Residence when married.	
Place of birth.	
Bachelor or Widower. (B. or W.)	
Occupation.	
Religious Denomination of Bridegroom.	
Names of Parents.	

	BRIDE.
Her name.	
Age.	
Residence when married.	
Place of birth.	
Spinster or Widow. (S. or W.)	
Religious Denomination of Bride.	
Names of Parents.	
Whether Married by License or Banns (L. or B.)	
SIGNATURES of Bridegroom	
of Bride	
of Witnesses,	
Residence	
Residence	

I certify the above named parties were married by me at , in the County of , this day of 19 .

Minister of, etc.

R.S.O. 1897, c. 162, Sched. E.

FORM 5.

Degrees of affinity and consanguinity which under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his	A woman may not marry her
1. Grandmother.	1. Grandfather.
2. Grandfather's wife.	2. Grandmother's husband.
3. Wife's grandmother.	3. Husband's grandfather.
4. Aunt.	4. Uncle.
5. Uncle's wife.	5. Aunt's husband.*
6. Wife's aunt.	6. Husband's uncle.
7. Mother.	7. Father.
8. Step mother.	8. Step father.
9. Wife's mother.	9. Husband's father.
10. Daughter.	10. Son.
11. Wife's daughter.	11. Husband's son.
12. Son's wife.	12. Daughter's husband.
13. Sister.	13. Brother.
14. Granddaughter.	14. Grandson.
15. Grandson's wife.	15. Granddaughter's husband.
16. Wife's granddaughter.	16. Husband's grandson.
17. Niece.	17. Nephew.
18. Nephew's wife.	18. Niece's husband.
19. Wife's niece.*	19. Husband's nephew.
20. Brother's wife.	20. Husband's brother.

The relationships set forth in this table include all such relationships whether by the whole or half blood, and whether legitimate or illegitimate.

*By The Revised Statutes of Canada, 1906, c. 105, it is enacted that "All laws prohibiting marriage between a man and the daughter of his deceased wife's sister where no law relating to consanguinity is violated, are hereby repealed both as to past and future marriages."

SCHEDULE A.

And furthermore since many inconveniences have fallen as well within this Realm as others by reason of marrying within the degrees of marriages prohibited by God's law, that is to say: The son to marry the mother or the step mother carnally known by his father; the brother the sister, the father his son's daughter, or his daughter's daughter, nor shall the son marry the daughter of his father procreate and born by his step mother, nor shall the son marry his aunt, being his father's or mother's sister, nor marry his uncle's wife, carnally known by his uncle, nor shall the father marry his son's wife, carnally known by his son, nor the brother marry his brother's wife carnally known by his brother; nor shall any man married and carnally knowing his wife marry his wife's daughter nor his wife's son's daughter, nor his wife's daughter's daughter . . . And further if it chance any man shall know carnally any woman that then all and singular persons being in any degree of consanguinity or affinity (as is above mentioned) to any of the parties so carnally offending, shall be deemed and adjudged to be within the cases and limits of the said prohibitions of marriage.

2 Edw. VII. c. 23, s. 2, Sched. G.

No. 94

3rd Session, 12th Legislature.
1 George V., 1911.

BILL.

An Act respecting the Solemnization of Marriage.

First Reading.

(*Reprinted as Amended by the Committee of Whole House.*)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 95. 1911.

BILL

An Act respecting Accidental Fires.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Accidental Fires Act.* *New.* Short title.

2. No action shall be brought against any person in whose house or building or on whose land any fire shall accidentally begin, nor shall any recompense be made by him for any damage suffered thereby; provided that no contract or agreement made between landlord and tenant shall be hereby defeated or made void. No action to lie against person from whose premises fire is accidentally communicated.

Rep. Act 14 Geo. III, c. 78, s. 86.

3. Section 41, chapter 23, of the Act passed in the seventh year of the reign of His late Majesty, King Edward the Seventh, is repealed. Repeal.

No. 95.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Accidental Fires.

First Reading.

Mr. Fox.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 96. 1911.

BILL

An Act to simplify Titles and to facilitate the Transfer of Land.

SHORT TITLE, s. 1.
APPLICATION OF ACT, ETC., s. 2.
INTERPRETATION, s. 3.
POWER OF JUDGE IN CHAMBERS, s. 4.

PART I.

LAND REGISTRY IN COUNTY OF YORK, s. 5.
FIRST REGISTRATION OF LAND, ss. 6-15.

PART II.

LEASEHOLD LAND, ss. 16-21.

PART III.

FIRST REGISTRATION, HOW EFFECTED, ss. 22, 23.
Liability to easements and other rights, ss. 24, 25.
Incumbrance existing at first registration, ss. 26-28.
No acquisition of title by adverse possession, s. 29.

PART IV.

TRANSFER AND MORTGAGE OF REGISTERED LAND, ss. 30-55.
Mortgage of registered land, ss. 30-37.
Transfer of land, ss. 38-45.
Claims for dower, ss. 46, 47.
Transfer of leaseholds, ss. 48-53.
Transfer of charges, s. 54.
Time of registration, s. 55.
Transmission of land and charges on death of owner, ss. 56-61.
Executions and sale under, ss. 62-65.
Sales for taxes, s. 66.
MECHANICS' LIENS, s. 67.

PART V.

OTHER DEALINGS WITH REGISTERED LAND, ss. 68-79.
Registered owner only may make registered disposition, s. 68.
Right to registration, s. 69.
Notices of leases, s. 70.
Notice of estates in dower or by the curtesy, s. 71.
Caution against registered dealings, ss. 72-76.
Sale of standing timber, s. 77.
Inhibition against registered dealings without order of Court, s. 78.
Power of registered owner to impose restrictions, s. 79.

PART VI.

SUPPLEMENTAL PROVISIONS, ss. 80-163.
NOTICE BY REGISTRATION, s. 80.
CAUTION AGAINST ENTRY OF LANDS ON REGISTER, ss. 81-86.
PENALTY WHERE CAUTION WRONGFULLY LODGED, ETC., s. 85.
COSTS, s. 87.
DOUBTFUL QUESTIONS ARISING ON TITLE, s. 88.
Persons under incapacity, s. 89.
LAND CERTIFICATES, OFFICE COPIES OF LEASES AND CERTIFICATES OF CHARGE, ss. 90-93.
REGISTRY OF SPECIAL HEREDITAMENTS, ss. 94.
GENERAL PROVISIONS, ss. 95-103.
Persons under disability, s. 104.
PLANS, ss. 105-108.
NOTICES, ss. 112-113.
SPECIFIC PERFORMANCE, s. 114.
RECTIFICATION OF REGISTER, ss. 115-120.
FRAUDULENT ACTS AND DISPOSITIONS, ss. 121-122.
ASSURANCE FUND, ss. 123-128.
WITHDRAWING LAND FROM REGISTRY, s. 129.

ADMINISTRATION OF LAW AND MISCELLANEOUS, ss. 130-146.
Conduct of business in office of Land Titles, ss. 130-132.
Depositions and witnesses, ss. 133, 134.
Certificate as to taxes, s. 135.
Deputy of Master, s. 136.
Right to inspect registry, s. 137.
General rules, and rules as to fees, s. 138.
Fees payable, s. 139.
Appeals, ss. 140-141.
Irregularities, s. 142.
Oath of office and sureties, ss. 143-144.
Master, etc., not to act for investors, s. 145.
EXTENSION TO OTHER LOCALITIES AND EXPENSES, ss. 146-148.
LOCAL MASTERS OF TITLES, ss. 149-155.
INSPECTOR OF LAND TITLES' OFFICES, ss. 156-158.
REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS, ss. 159-163.
REPEAL, s. 164.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

Short title.

1. This Act may be cited as *The Land Titles Act.* R.S.O. 1897, s. 138, s. 1.

Application of Act.

2. This Act shall, subject to section 146, apply to the County of York, including the City of Toronto, the County of Elgin, including the City of St. Thomas, the County of Ontario, the City of Ottawa and the County of Carleton, and to Provisional Judicial Districts only, and the Land Registries heretofore established for the said counties and districts are hereby continued. R.S.O. 1897, c. 138, s. 2, and Orders in Council of 27th July, 1899, and 4th December, 1907.

Interpretation.

3. In this Act

Court.

(*a*) "Court" shall mean the High Court.

General Rules.

(*b*) "General Rules" or "Rules" shall mean the Rules made in pursuance of this Act or of any Act repealed by it.

Inspector.

(*c*) "Inspector" shall mean Inspector of Land Titles Offices, and shall include a person acting as Inspector of Land Titles Offices under the authority conferred by this Act.

Owner.

(*d*) "Owner" shall mean owner in fee simple;

Prescribed.

(*e*) "Prescribed" shall mean prescribed by this Act or by any general rules made in pursuance of this Act.

Proper Master of Titles.

(*f*) "Proper Master of Titles" shall mean the Master of Titles or Local Master in whose office the land affected or

intended to be affected by any proceeding, instrument or document is or may be registered

(*g*) "Registered" shall mean registered under this Act. Registered.

(*h*) "Sworn Valuator" shall mean a person appointed with the approval of the Lieutenant-Governor in Council, to value land under this Act. R.S.O. 1897, c. 138, s. 3. Sworn Valuator.

4 Any jurisdiction of the court under this Act may be exercised by a judge of the court whether sitting in court or in chambers. R.S.O. 1897, c. 138, s. 3, *part.* Judge may act in Court or Chambers.

PART I.

ENTRY OF LAND ON REGISTER OF TITLE.

5. The Land Registry for the County of York shall be conducted by an officer to be called the Master of Titles, who shall be a barrister of not less than ten years' standing at the Bar of Ontario, and shall be appointed by the Lieutenant-Governor in Council by commission under the Great Seal R.S.O. 1897, c. 138, s. 4. Land registry for County of York to be conducted by Master of Titles. Imp. 38 & 39 V., c. 87, ss. 5, 106.

6.—(1) Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether or not subject to incumbrances, or any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether or not subject to incumbrances, may apply to the proper Master of Titles to be registered under this Act, or to have registered in his stead any nominee as owner of such land, with an Absolute, Qualified or Possessory title, as the case may be. R.S.O. 1897, c. 138, s. 5. Application for registration with absolute or possessory title. Imp. 38 & 39 V., c. 87 s. 5.

(2) Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether or not subject to incumbrances, may also apply if the vendor consents to the application. R.S.O. 1897, c. 138, s. 6. Application by purchaser. Imp. 38 & 39 V. c. 87, s. 5.

(3) The Attorney-General for Canada, or the Attorney-General for Ontario, may apply in like manner in respect to the title of the Crown to any land; and the practice and procedure upon the application shall be the same as in ordinary cases. R.S.O. 1897, c. 138, s. 7. Application by Crown. Imp. 38 & 39 V. c. 87, s. 65.

Trustees and Mortgagees.

Trustees, etc., may sell by medium of registry, or may be themselves registered.

Imp. 38 & 39 V. c. 87, s. 68.

7.—(1) Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorize the purchaser to make an application to be registered as owner with any title with which an owner is authorized to be registered, and may consent to the performance of the contract being conditional on his being so registered; or any of such persons, except a mortgagee, may himself apply to be registered as such owner with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale.

(2) A mortgagee having a power of selling land, may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any such title.

(3) The amount of all costs, charges, and expenses properly incurred by such person, in or about the application, shall be ascertained and declared by the proper Master of Titles, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in respect thereof. R.S.O. 1897, c. 138, s. 8.

Part Owners.

Registration of part owners.

Imp. 38 & 39 V. c. 87, s. 69.

8.—(1) Any two or more persons entitled concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land, may, subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land, apply to the proper Master of Titles to be registered as joint owners, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that an individual owner may be registered. R.S.O. 1897, c. 138, s. 9.

Entry on registration of part owners.

(2) Where several persons are so registered as owners, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled, and such entry may be made either upon first registration or subse-

quently in case the estates, rights or interests so arise. R.S.O. 1897, c. 138, s. 10.

(3) Persons entitled to several estates, as mentioned in subsection 1, or owners who are tenants in common or joint tenants, shall be entitled to take out one certificate in respect of the whole estate, or each person may, when the extent of his interest is defined, take out a certificate in respect of his own estate; but when a certificate for the whole is outstanding no separate certificate shall be issued till the outstanding certificate is returned and cancelled. R.S.O. 1897, c. 138, s. 11. What certificate part owners may take out.

Absolute Titles.

9. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple unless and until the title is approved by the proper Master of Titles. R.S.O. 1897, c. 138, s. 12. Evidence where absolute title required. Imp. 38 & 39 V. c. 87, s. 6.

10. The first registration of a person as owner of land, in this Act referred to as first registered owner, with an absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows: Estate of first registered owner with absolute title. Imp. 38 & 39 V. c. 87, s. 7.

(*a*) To the incumbrances, if any, entered on the register;

(*b*) To such liabilities, rights and interests, if any, as are declared for the purposes of this Act not to be incumbrances, unless the contrary is expressed on the register;

(*c*) Where such first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, to any unregistered estates, rights, interests, or equities to which such persons may be entitled;

but free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 13.

Possessory Titles.

11. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple Evidence where possessory title required.

Imp. 38 & 39 V. c. 87, s. 6.

on giving such evidence of title, and serving such notices, if any, as may be prescribed. R.S.O. 1897, c. 138, s. 14.

Estate of first registered owner with possessory title.

Imp. 38 & 39 V. c. 87, s. 8.

12. The registration of a person as first registered owner with a possessory title only, shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered owner, and subsisting or capable of arising at the time of registration of such owner, but shall otherwise have the same effect as registration of a person with an absolute title. R.S.O. 1897, c. 138, s. 15.

Qualified Titles.

A qualified title may be registered.

Imp. 38 & 39 V. c. 87, s. 9.

13.—(1) Where on the examination of the title it appears to the proper Master of Titles that it can be established only for a limited period, or subject to certain reservations, the Master, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

(2) A title registered subject to such excepted estate, right, or interest shall be called a qualified title.

Estate of owner registered with a qualified title.

(3) The registration of a person as first registered owner with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted.

Notice of easement. Imp. 38 & 39 V. c. 87, s. 18, sub-s. d.

(4) Where the existence of any easement is proved the Master may, if he thinks fit, enter notice thereof on the register.

Statement of appurtenant easement on certificate, etc.

(5) Where title is shewn to any easement appurtenant to the land being registered, the same may be stated in the entry and certificate of ownership. R.S.O. 1897, c. 138, s. 16.

Certificate of Ownership.

Certificate of ownership given on registration.

Imp. 38 & 39 V. c. 87, s. 10.

14. On the entry of the name of the first registered owner of freehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a Certificate, in the prescribed form, in this Act called a Certificate of Ownership, which shall state whether the title of the owner therein mentioned is absolute, qualified, or possessory. R.S.O. 1897, c. 138, s. 17.

15. A certificate by the proper Master of Titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situate; and thereafter *The Registry Act* shall cease to apply to such land. R.S.O. 1897, c. 138, s. 18.

Registry Act not to apply to land under this Act.

10 Edw. VII c. 60.

PART II.

LEASEHOLD LAND.

16.—(1) A separate register of leasehold land shall be kept and any of the following persons:

Register of leasehold land.

(*a*) Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which at least 21 are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the portion unexpired of the current term to at least 21 years, or to a renewal for a life or lives, whether or not subject to incumbrances;

Application for registration with or without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 11.

(*b*) Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease whether or not subject to incumbrances; and

(*c*) Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease whether or not subject to incumbrances;

may apply to the proper Master of Titles to be registered, or to have registered in his stead any nominee as owner of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held;

Provided that, in the case of leasehold land contracted to be bought, the vendor consents to the application.

(2) Every applicant for registration of leasehold land shall deposit with the Master the lease in respect of which the application is made, or if such lease is proved to the

satisfaction of the Master to be lost, a copy of such lease or of a counterpart thereof, verified to the satisfaction of the Master; and such lease or verified copy is in this Act referred to as the registered lease.

(3) Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered.

(4) Leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered unless and until provision is made in the prescribed manner for preventing alienation without such license, by entry in the register of a restriction to that effect, or otherwise. R.S.O. 1897, c. 138, s. 19.

(5) Section 7 shall apply to leasehold as well as to freehold land. 7 Edw. VII. c. 30, s. 2.

Evidence of title required on application.

Imp. 38 & 39 V. c. 87, s. 12.

17. An applicant or his nominee shall not be registered as owner of leasehold land unless and until the title to such land is approved by the proper Master of Titles; and if he applies to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, shall not be registered with such declaration unless and until the lessor, after an examination of his title by the Master, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 20.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 13.

18. The registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held, shall vest in such person the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges and appurtenances attached to such estate, but subject

(*a*) To all implied and express covenants, obligations and liabilities incident to such leasehold estate;

(*b*) To the incumbrances, if any, entered on the register;

(*c*) Unless the contrary is expressed on the register, to such liabilities, rights and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land; and

(*d*) Where such first registered owner is not entitled for his own benefit to the land registered, then, as between himself and any person for whom he holds or claiming under him, to any unregistered estates, rights, interests or equities to which such person may be entitled;

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 21; 7 Edw. VII. c. 30, s. 3.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 14.

19. The registration of a person as first registered owner of leasehold land without a declaration of the title of the lessor, shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall have the same effect as the registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 22.

Lessor may be declared to have a qualified title to grant lease.

Imp. 38 & 39 V. c. 87, s. 15.

20.—(1) Where on the examination of the title of a lessor by the proper Master of Titles, it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period, or subject to certain reservations, the Master may, by an entry made in the register, except from the effect of registration, any estate, right or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register; and a title of a lessor subject to such excepted estate, right, or interest shall be deemed a qualified title.

(2) The registration of a person as first registered owner of leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held, shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 23.

Office copy of lease given on registration.

Imp. 38 & 39 V. c. 87, s. 17.

21. On the entry of the name of the first registered owner of leasehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated

in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register. R.S.O. 1897, c. 138, s. 24.

PART III.

REGISTRATION, HOW EFFECTED.

Regulations as to examination of title by Master.

Imp. 38 & 39 V. c. 87, s. 17.

22. The examination of a title shall be conducted in the prescribed manner, subject to the following provisions:

(*a*) Due notice shall be given where the giving of such notice is prescribed; and sufficient opportunity shall be afforded to any person desirous of objecting to come in and state his objections to the proper Master of Titles;

(*b*) The Master shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions;

(*c*) If the Master, upon the examination of any title, is of opinion that it is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of it or may require the applicant to apply to the Court, upon a statement signed by the Master, for its sanction to the registration;

10 Edw. VII. c. 58, s. 8.

(*d*) It shall not be necessary to produce any evidence which, by *The Vendors and Purchaser's Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents, or instruments, unless the Master otherwise directs;

(*e*) The Master may receive and act upon any evidence which is received in court on a question of title, or any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of conveyancers, if the same satisfies him of the truth of the facts intended to be made out thereby;

(*f*) The Master may refer to and act upon not only the evidence adduced before him in the proceeding in which such evidence is adduced, but also any evidence adduced before him in any other proceeding wherein the facts to which such evidence relates were or are in question. R.S.O. 1897, c. 138, s. 25. *Amended.*

Employment of Counsel for examinations of titles.

23. The Lieutenant-Governor in Council may name one or more barristers to whom the Master of Titles may refer the examination of the title, in whole or in part, of any land in respect of which an application is made, and the Master may act upon the opinion of such referee. 7 Edw. VII. c. 30, s. 1.

Imperial Land Transfer Rules of 1903, Nos. 36 and 313.

Liability of registered land to easements and certain other rights.

24.—(1) All registered land, unless the contrary is expressed on the register, shall be subject to such of the following liabilities, rights, and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed incumbrances within the meaning of this Act;

Imp. 38 & 39 V. c. 87, s. 18.

Land to be registered subject to taxes.

(*a*) Provincial or municipal taxes, duties, charges, rates or assessments, and school or water rates;

(*b*) Any right of way, water-course, and right of water, and other easements;

(*c*) Any title or lien which, by possession or improvements the owner or person interested in any adjoining land has acquired to or in respect of the registered land;

(*d*) Any lease or agreement for a lease, for a period yet to run which does not exceed three years, where there is actual occupation under it;

(*e*) Any right of the wife or husband of the person registered as owner to dower or curtesy, as the case may be, in case of surviving such owner;

(*f*) Any right of expropriation, access or user conferred by Statute; R.S.O. 1897, c. 138, s. 26 (1); 3 Edw. VII. c. 12, s. 2; 7 Edw. VII. c. 30, s. 4. *Amended.*

(*g*) Any public highway.

(2) If the applicant desires the certificate to declare the title to be free from the first five of such particulars, or any

of them, his application shall so state, and the investigation shall proceed accordingly. R.S.O. 1897, c. 138, s. 26 (2).

(3) The description of the land in the certificate of ownership shall not, as against adjoining owners, be conclusive as to the boundaries or extent thereof. R.S.O. 1897, c. 138, s. 26 (1). *Part, amended.*

Effect of registration of land upon timber licenses.

Rev. Stat. c. 32.

Rev. Stat. c. 29.

25. Where a license under *The Crown Timber Act,* or any Statute for which that Act is substituted, has been or shall be granted, and the land is registered under this Act the same shall be deemed to have been, and to be subject to the rights of the licensee or his assigns for the current license year under the license, and to the rights of His Majesty in the pine trees under *The Free Grants and Homesteads Act,* or any Statute for which that Act is substituted, without the fact of such land being so subject being expressed in the entry in the register, or in the certificate of ownership. R.S.O. 1897, c. 138, s. 27.

Mortgages existing at First Registration.

Lands subject to mortgage at time of registration.

26.—(1) Where land is registered subject to mortgages existing thereon at the time of the first registration the mortgages shall be noted in the register in the same order as they are registered in the registry office if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are noted.

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall, subject to sections 10 to 13 and 42 to 45, be decided under the registry law, as if the registrations in the Office of Land Titles had been made under *The Registry Act.* R.S.O. 1897, c. 138, s. 29.

10 Edw. VII., c. 60.

Determination of Incumbrances or Leases existing at First Registration.

Complete or partial discharge of incumbrance,

Imp. 38 & 39 V., c. 87, s. 19.

27.—(1) Where upon the first registration of land, notice of any incumbrance affecting such land has been entered on the register, the proper Master of Titles, on proof to his satisfaction of the discharge of such incumbrance shall

note in the prescribed manner on the register, by cancelling the original entry or otherwise, the cessation of such incumbrance and thereupon the incumbrance shall cease.

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land or the registered assignee thereof or of the personal representative of such mortgagee or assignee authorizing or certifying the discharge of the whole or any part of the land therefrom or the discharge of the whole or any part of the money thereby secured, the Master may note on the register the discharge of such land from the mortgage or the discharge of such part of the money, and thereupon as to the land or money discharged, the incumbrance shall cease.

(3) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. R.S.O. 1897, c. 138, s. 30; 7 Edw. VII., c. 30, s. 5.

Determination of lease.

28. The proper Master of Titles, on proof to his satisfaction of the determination of any lease of registered land existing at the first registration, shall note in the prescribed manner on the register, the determination of such lease. R.S.O. 1897, c. 138, s. 31.

Imp. 38 & 39 V., c. 87, s. 20.

Adverse Possession as against Registered Owner.

No acquisition of title by adverse possession.

29.—(1) Where a title to registered land is claimed under *The Limitations Act,* no time prior to the registration of a registered owner of such land, shall be computed in the period of possession required to confer a title under the Act, as against such owner or any one claiming under him, but save as in this section provided the Act shall apply to registered land.

Imp. 38 & 39 V., c. 87, s. 21. 10 Edw. VII., c. 34.

(2) The registration of a transfer, charge or transfer of a charge shall have the same effect for the purpose of stopping the running of the Statute as an entry on the land.

(3) Where a person claims to have obtained a title by possession to registered land he may lodge a caution under section 72, and apply to the proper Master of Titles for an order for the rectification of the register, and on such application if it is made to appear that the applicant had at the time he lodged the caution acquired such title the Master may declare the applicant entitled to the land or any part thereof and shall rectify the register accordingly.

(4) No person shall be deemed to have acquired a title by possession unless he has taken the proceedings provided for by subsection 3.

(5) This section shall not affect the provisions of paragraph "*c*" of subsection 1 of section 24. *New.*

PART IV.

TRANSFER AND CHARGE OF REGISTERED LAND.

Charge of Registered Land.

Creation of charges, and delivery of certificate of charge.

Imp. 38 & 39 V., c. 87, s. 22.

30.—(1) Every registered owner, may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest, or as security for any other purpose, and with or without a power of sale. R.S.O. 1897, c. 138, s. 33 (1).

Charge how completed.

(2) The charge shall be completed by the proper Master of Titles entering on the register the person in whose favour the charge is made as the owner of the charge, stating the amount of the principal sum which the charge secures, with the rate of interest and the periods of payment, or the other purpose for which the charge is given.

(3) Where the charge contains a power of sale, that fact shall be stated, but the particulars need not be set out in the register, nor shall it be necessary to set forth incidental matters which may be expressly charged, such as costs of inspection, or of abortive attempts to sell and the like. 3 Edw. VII., c. 12, s. 3.

(4) The charge, when registered, shall confer upon the chargee a charge upon the interest of the chargor as appearing in the register subject to the incumbrances and qualifications to which such interest is subject, but free from any unregistered interests in the land. *New.*

(5) The Master shall also, if required, deliver to the owner of the charge, a certificate of charge in the prescribed form. R.S.O. 1897, c. 138, s. 33 (3).

10 Edw. VII. c. 60.

(6) The provisions of section 73 of *The Registry Act* shall apply to the charge as if it was a registered mortgage. *New.*

Implied covenant to pay charges.

Imp. 38 & 39 V., c. 87, s. 23.

31.—(1) Where a registered charge is created, there shall be implied on the part of the registered owner at the time of the creation of the charge, his heirs, executors and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge:

(*a*) To pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land and that in case of default all payments made by the owner of the charge may be added to the principal sum and bear interest;

(*b*) If the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.

Provision where charge expressed to be made under 10 Edw. VII. c. 55.

(2) Where a charge, whether or not under seal, is expressed to be made in pursuance of *The Short Forms of Mortgages Act,* or refers thereto, and contains any form of words contained in clauses numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16, of Column One, of Schedule B to that Act, whether expressed in the first or third person, such words shall have the same meaning and effect as the words under the corresponding number in Column Two in that schedule: and the provisions of that Act shall apply to the charge. R.S.O. 1897, c. 138, s. 34.

Implied covenant in case of leaseholds to pay rent, etc., and indemnify owner of charge.

Imp. 38 & 39 V., c. 87, s. 24.

32. Where a registered charge is created on any leasehold land, there shall be implied on the part of the registered owner of such leasehold land at the time of the creation of the charge, his heirs, executors, and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge:

(*a*) That the registered owner of such leasehold land at the time of the creation of the charge, his executors, administrators or assigns, will pay, perform and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed; and

(*b*) Will keep the owner of the charge, his executors, administrators and assigns, indemnified against

all actions, suits, expenses, and claims, on account of the non-payment of such rent, or any part thereof, or the breach of such covenants or conditions, or any of them. R.S.O. 1897, c. 138, s. 35.

Entry by owner of charge.

Imp. 38 & 39 V., c. 87, s. 25.

33. Subject to any entry to the contrary on the register, the registered owner of a registered charge, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge, may enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. R.S.O. 1897, c. 138, s. 36.

Foreclosure by owner of charge.

Imp. 38 & 39 V., c. 87, s. 26.

34. Subject to any entry to the contrary on the register the registered owner of a registered charge may enforce it by foreclosure or sale, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption. R.S.O. 1897, c. 138, s. 37.

Remedy of owner of charge with a power of sale.

Imp. 38 & 39 V., c. 87, s. 27.

35. Subject to any entry to the contrary on the register, the registered owner of a registered charge with a power of sale, in accordance with the terms of the power, may sell and transfer the interest in the land, which is the subject of the charge, or any part thereof, in the same manner as if he were the registered owner of the land to the extent of such interest therein. R.S.O. 1897, c. 138, s. 38.

Priority of registered charges.

Imp. 38 & 39 V., c. 87, s. 28.

36. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created. R.S.O. 1897, c. 138, s. 39.

Discharge of incumbrance.

Imp. 38 & 39 V., c. 87, s. 28.

37.—(1) The proper Master of Titles shall, on the requisition of the registered owner of any land and on due proof of the satisfaction of a charge thereon, or may on the requisition of the registered owner of a charge or of his personal representative or on his certificate of the satisfaction thereof, note on the register in the prescribed manner, by cancelling the original entry or otherwise, the cessation of the charge; and thereupon the charge shall cease.

(2) The Master may in like manner and with the like effect note the cessation of any other incumbrance.

(3) On the requisition or certificate of the registered owner of a charge, or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the Master may note on the register the discharge of such land from the charge or the discharge of such part of the money and thereupon as to the land or money discharged the charge shall cease. R.S.O. 1897, c. 138, s. 40. Partial cessation of charge.

(4) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. 7 Edw. VII., c. 30, s. 6. Death of person certifying to cessation of charge.

Transfers after Land is Brought Under this Act.

38.—(1) Every registered owner may, in the prescribed manner, transfer the land or any part thereof. Transfer of land, and delivery of land certificate.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the land transferred; and until such entry is made the transferor shall be deemed to remain owner of the land. Imp. 38 & 39 V., c. 87, s. 29.

(3) Upon completion of the registration of the transferee. the Master shall, if required, deliver to him a certificate of ownership in the prescribed form.

(4) Where part only of the land is transferred, the Master shall also, if required, deliver to the transferor a certificate of ownership containing a description of the land retained by him. R.S.O. 1897, c. 138, s. 41.

39.—(1) Any person who is entitled to have a transfer or charge entered on the register, shall have the right to require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the proper Master of Titles, or to deliver it to such person for production for the purpose of having all proper entries or alterations made thereon by the Master, or for cancellation when the certificate has become effete. Right to compel production of certificate of ownership.

(2) A person entitled to have a cessation of a charge entered shall have the right to have an outstanding certificate of ownership of the charge produced in like manner in order that it may be cancelled. R.S.O. 1897, c. 138, s. 42.

40. Where upon an application for the registration of a charge or of a transfer of any land or charge, the proper Master of Titles considers it expedient to require the pro- Master may require production of certificate of ownership.

duction of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation when the same ought to be cancelled or for any other purpose, he may do so, and may decline to enter the charge or transfer on the register until the certificate has been produced, and if the certificate is not produced within such time as the Master limits, he may return the transfer or charge. R.S.O. 1897, c. 138, s. 43.

Transfers to trustees under Rev. Stat. c. 307.

41. Where registered land is transferred to trustees under *The Act respecting the property of Religious Institutions,* the trustees shall be registered as owners in the usual manner and by their corporate name without setting out the purposes or trusts on which the land is held, but, a note shall be made by the proper Master of Titles that the land is only to be transferred or charged in accordance with the provisions of that Act. R.S.O. 1897, c. 138, s. 44.

Estate of transferee for valuable consideration of land with absolute title.

Imp. 38 & 39 V., c. 87, s. 30.

42. A transfer for valuable consideration of land registered with an absolute title, when registered, shall confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges and appurtenances belonging or appurtenant thereto, subject to:

(*a*) The incumbrances, if any, entered or noted on the register; and

(*b*) Such liabilities, rights, and interests, if any, as are declared for the purposes of the Act not to be incumbrances, unless the contrary is expressed on the register, and

As to such rights, privileges and appurtenances, subject also to any qualification, limitation or incumbrance to which the same are expressed to be subject in the register, or where such rights, privileges and appurtenances are not registered, then subject to any qualification, limitation or incumbrance to which the same are subject at the time of the transfer. *New.*

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 45. *Amended.*

Estate of transferee for valuable consideration of land with qualified title.

43. A transfer for valuable consideration of land registered with a qualified title, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any

right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 46. Imp. 38 & 39 V., c. 87, s. 31.

44. A transfer for valuable consideration of land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the registration of such owner; but, otherwise, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R.S.O. 1897, c. 138, s. 47. Estate of transferee for valuable consideration of land with possessory title. Imp. 38 & 39 V., c. 87, s. 32.

45. A transfer of registered land, made without valuable consideration, shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, otherwise, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 48. Estate of voluntary transferee of land. Imp. 38 & 39 V., c. 87, s. 33.

Claims for Dower.

46.—(1) Where it is claimed that registered land is free from dower on account of the land being held in trust, or for some reason other than the wife's release of her dower by an instrument which can be produced and registered, and evidence to that effect which appears satisfactory is produced before the proper Master of Titles, he may issue a notice requiring the wife to support her right if she claims to be entitled to dower in the land; and if she fails to do so the Master may enter on the register a memorandum that the land is free from dower, and such entry shall, unless reversed on appeal, be a bar to any claim by such wife; and no appeal shall lie, unless the wife claims her right of dower before the Master. Claim that land is free from dower.

(2) This section shall also apply to the widow of a former owner. R.S.O. 1897, c. 138, s. 49.

47. Where registered land is transferred subject to a charge, or where the registered owner of land which is subject to a charge subsequently marries, the wife of the transferee or owner shall have the same rights in respect of dower as she would have had if the legal estate had been transferred by an ordinary mortgage and no others. R.S.O. 1897, c. 138, s. 50. Dower of wife transferee of incumbered land.

Transfers of Leaseholds.

Transfer of leasehold land and delivery of office copy of lease.

48.—(1) Every registered owner of leasehold land may in the prescribed manner, transfer the whole of his estate in such land or in any part thereof.

Imp. 38 & 39 V., c. 87, s. 34.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the leasehold land transferred, but until such entry is made the transferor shall be deemed to remain owner.

(3) Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease.

(4) If a part only is transferred, the Master, if required according to any agreement that has been entered into between the transferor and transferee, shall deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies shewing, by endorsement or otherwise, the parcels of which the person to whom such copy is delivered is the registered owner. R.S.O. 1897, c. 138, s. 51.

Estate of transferee for valuable consideration of leasehold land with a declaration of absolute title of lessor.

Imp. 33 & 39 V., c. 87, s. 35.

49. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, when registered, shall vest in the transferee the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject to

(*a*) All implied and express covenants, obligations, and liabilities incident to such estate;

(*b*) The incumbrances, if any, entered or noted on the register; and

(*c*) Such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be incumbrances in the case of registered freehold land, unless the contrary is expressed on the register;

But free from all other estates and interests whatsoever including any estates and interests of His Majesty, which are within the legislative authority of Ontario. R.S.O. 1897, c. 138, s. 52.

50. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor, shall not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but otherwise when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 53.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor.

Imp. 38 & 39 V., c. 87, s. 37.

51. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R.S.O. 1897, c. 138, s. 54.

Estate of transferee valuable consideration of leasehold land with a declaration of qualified title of lessor.

Imp. 38 & 39 V., c. 87, s. 36.

52. A transfer of registered leasehold land made without valuable consideration shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but otherwise when registered in all respects and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 55.

Estate of voluntary transferee of leasehold land.

Imp. 38 & 39 V., c. 87, s. 38.

53. On the transfer of any registered leasehold land, unless there is an entry on the register negativing such implication, there shall be implied

Implied covenants on transfer of leasehold estates.

Imp. 38 & 39 V., c. 87, s. 39.

(*a*) On the part of the transferor, a covenant with the transferee that, notwithstanding anything by such transferor done, omitted, or knowingly suffered, the rents, covenants and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

(*b*) On the part of the transferee, a covenant with the transferor, that the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rents, covenants, and conditions by and in the registered lease reserved and con-

tained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his executors, administrators and assigns, indemnified against all actions, suits, expenses, and claims on account of the non-payment of the rent or any part thereof, or the breach of the convenants or conditions, or any of them. R.S.O. 1897, c. 138, s. 56.

Transfer of Charges.

Transfer of charges on register.

Imp. 38 & 39 V., c. 87, s. 40.

54.—(1) The registered owner of a charge may, in the prescribed manner, transfer such charge to another person as owner.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the charge transferred.

(3) The transfer, when registered, shall confer upon the transferee the ownership of the charge free from any unregistered interests therein, and the transfer of part of the sum secured by a charge shall confer upon the transferee the ownership of such part free from any unregistered interests therein.

(4) Every transfer of a charge shall be subject to the state of account upon the charge between the chargor and the chargee.

(5) The Master shall also, if required, deliver to the transferee a fresh certificate of charge.

(6) The transferor shall be deemed to remain owner of such charge until the name of the transferee is entered on the register in respect thereof.

Transfer of part of a charge.

(7) The registered owner of a charge may transfer a part of the sum secured by the charge, and the part so transferred may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it, as may be stated in the transfer. R.S.O 1897, c. 138, s. 57. *Amended.*

Time of Registration.

Priority.

55. The day, hour and minute of the receipt of each instrument and copy of writ shall be noted thereon, and for the purpose of priority between chargees, transferees and others, the time of the receipt shall be deemed the time of registration. R.S.O. 1897, c. 138, s. 58.

Transmission of Land and Charges on Owner's Death.

Transmission on death of owner of freehold land.

Imp. 38 & 39 V., c. 87, s. 41.

56. On the death of the sole registered owner, or of the survivor of several joint registered owners, of any freehold land, such person shall be registered as owner, in the place of the deceased owner or owners, as may, on the application of any person interested in such land, be appointed by the proper Master of Titles, regard being had to the rights of the several persons interested in the land, and in particular to the selection of any such persons as may for the time being appear to the Master to be entitled, according to law, to be so appointed: subject to an appeal to the Court in the prescribed manner by any person aggrieved by any order of the Master under this section. R.S.O. 1897, c. 138, s. 59.

Transmission on death of owner of leasehold land or of charge.

Imp. 38 & 39 V., c. 87, s. 42.

57. On the death of the sole registered owner, or of the survivor of several joint registered owners of any leasehold land or of any charge, the executor or administrator of such sole deceased owner, or of the survivor of such joint owners, shall be entitled to be registered as owner in his place. R.S.O. 1897, c. 138, s. 60.

Transmission on death of one of several owners.

58. Where two or more persons have been entered as owners of any land or charge, and one of them dies, his personal representative may apply to be entered as owner jointly with the survivor or survivors. R.S.O. 1897, c. 138, s. 61.

Nature of title of registered fiduciary owners.

Imp. 38 & 39 V., c. 87, s. 46.

59. Any person registered in the place of a deceased owner shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates, rights, interests, or equities subject to which the deceased owner held the same; but otherwise in all respects, and in particular as respects any registered dealings with such land or charge, he shall be in the same position as if he had taken such land or charge under a transfer for a valuable consideration. R.S.O. 1897, c. 138, s. 62.

Evidence of transmission of registered ownership.

Imp. 38 & 39 V., c. 87, s. 47.

60. The fact of any person having become entitled to any land or charge in consequence of the death of any registered owner, shall be proved in the prescribed manner. R.S.O. 1897, c. 138, s. 63.

Entry of heir or devisee without reference to debts of estate.

10 Edw. VII., c. 56.

61. Where an heir or devisee applies to be entered as owner of any registered land, which has vested in him under *The Devolution of Estates Act*, the proper Master of Titles shall make such entry without reference to the liability of the land for debts, except under executions, copies of which have been duly lodged; and the liability under that Act of

such land or any transferor thereof shall be determined as if such land had not been registered under this Act. 3 Edw. VII. c. 12, s. 9. *Amended.*

Executions and Sale Thereunder.

Notice of executions.

62.—(1) The sheriff, or other officer to whom the same is directed forthwith after the delivery to him of any execution or other writ, or renewal thereof, affecting registered land, upon written request of the party by whom such execution or other writ was sued out or renewed, or of his solicitor, but not otherwise, shall deliver or transmit by registered post to the proper Master of Titles a copy of the writ certified under his hand; and no registered land shall be bound by any such writ until such copy has been received by the Master; and after the receipt by him of the copy, no transfer by the execution debtor shall be effectual, except subject to the rights of the execution creditor under the writ.

Books to be kept.

(2) The Master shall keep a book in the prescribed form, in which shall be entered a record of all writs, copies of which are received by him from the sheriff or other officer.

(3) No sale or transfer under any such writ shall be valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding that the purchaser may have had notice of the writ.

(4) Upon production to the Master of sufficient evidence of the satisfaction of any such writ, he shall cause an entry to be made in the book to that effect, and on such entry the writ shall be deemed to be satisfied.

(5) Every writ and renewal of a writ shall be presumed to have been spent, and the delivery or transmission of a copy thereof shall cease to have effect at the expiration of the writ or renewal as appearing on the copy transmitted; but if there has been a sufficient commencement of the execution to enable it to be completed by the sale and conveyance of the land under the writ, and the same has not been completely executed the sheriff or officer shall, or the execution creditor may, at any time within one month before the expiration of the writ or renewal as so appearing, file with the Master a certificate of the sheriff or officer stating that fact, and such certificate shall be noted at the entry of the writ in the book, and the writ shall continue in force for a further period of one year from the filing of the certificate when it shall cease to have effect unless another similar certificate is filed, which shall operate in like manner.

(6) Where an execution or other writ is issued against the registered owner under a different name from that under which he is registered, the writ shall have no effect under this Act, unless the person who sues out the writ, or his solicitor, gives a notice to the Master, stating the name under which the execution debtor is registered, and otherwise in the form or to the effect prescribed, or unless a like notice is written upon the copy of the writ. Notice to Master where writ issues against owner under a different name from that on the register.

(7) The sheriff or other officer shall be entitled to a fee of fifty cents for each copy of writ or certificate transmitted by him. R.S.O. 1897, c. 138, s. 64. *Amended.*

63. Where a transferor or transferee of land, or maker or owner of a charge, claims that a writ apparently affecting land does not affect the land or charge, he shall produce such evidence thereof as the proper Master of Titles may consider necessary, and the Master may require all parties interested to be notified of the application to register freed from the writ, and may himself decide the question or may direct an issue to be tried or a case to be stated and may make such order as to costs as he deems just. R.S.O. 1897, c. 138, s. 65. Provision in case it is claimed that land is not affected by a writ apparently affecting same.

64.—(1) The seizure under execution or other process of a mortgage or charge or of leasehold land registered under this Act, shall not take effect until a certificate of the sheriff or other officer that he has taken such mortgage, charge or leasehold land under such process against the registered owner thereof is lodged with the proper Master of Titles. Seizure of mortgage, charge, or leasehold.

(2) The certificate shall state the number of the parcel under which the land affected is registered, and the name of the owner, and shall be noted by the Master in the register.

(3) This section shall not apply where the proceedings prescribed by section 23 of *The Execution Act* have been taken with respect to a mortgage or charge. R.S.O. 1897, c. 138, s. 66. *Amended.* 9 Edw. VII., c. 47.

65. Where any registered freehold or leasehold land is sold under execution or other process, the proper Master of Titles, upon the production to him of the transfer of the same by the sheriff or other officer in the prescribed form, with proof of the due execution thereof, shall cause a notice to be mailed to the proper post-office address of the person whose interest has been sold; and after the expiration of two weeks from the mailing of the notice, and if no other person has become entitled meanwhile for want of entry of the writ or otherwise, the Master shall register the purchaser as owner, Sale under execution of registered land.

and shall, if required, issue to him a certificate of ownership in the prescribed form. R.S.O. 1897, c. 138, s. 67; 7 Edw. VII. c. 30, s. 7.

Sale for Taxes.

Sales for taxes.

66. Where land is sold for taxes, the purchaser may at any time after the sale lodge a caution against the transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form, with proof of the due execution thereof by the proper officer, the proper Master of Titles shall cause a notice to be mailed to the proper post-office address of the persons who appear upon the register to be interested in the land; and after the expiration of three months from the mailing of the notice, shall register the purchaser at the sale as owner of the land, with an absolute title; and shall, if required, issue to him a certificate of ownership in the prescribed form, unless the registration is in the meantime stayed by order of the Court, and in that case the registration shall not be made, nor shall the certificate be issued, except in accordance with the order and direction of the Court. R.S.O. 1897, c. 138, s. 68.

Cessation of Mechanics' Liens.

Cancellation of liens registered under 10 Edw. VII., 69.

67. On its appearing to the satisfaction of the proper Master of Titles that a registered claim for lien under *The Mechanics' and Wage Earners' Lien Act* has ceased to exist by reason of proceedings not having been taken within the time limited in that behalf, the Master may make an entry accordingly, or an entry cancelling the registered claim; and the land affected shall thereby be released from the claim. R.S.O. 1897, c. 138, s. 69.

[*As to registration of Mechanics' Liens, see The Mechanics' and Wage Earners' Lien Act, 10 Edw. VII. c. 69, s. 17.*]

PART V.

OTHER DEALINGS WITH REGISTERED LAND.

Registered owner only may make registered disposition.

Effect of unregistered dispositions.

Imp. 38 & 39 V., c. 87, s. 49.

68.—(1) No person other than the registered owner shall be entitled to transfer or charge registered freehold or leasehold land by a registered disposition.

(2) Subject to the maintenance of the estate and right of such owner, any person, having a sufficient estate or interest in the land, may create estates, rights, interests and equities in the same manner as he might do if the land were not registered.

(3) Any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered owner, by entering on the register such notices, cautions, inhibitions, or other restrictions as are authorized by this Act.

(4) No person other than the registered owner thereof shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject matter admits, in and with which unregistered estates and interests may be created in registered land. R.S.O. 1897, c. 138, s. 70. *Amended.*

Right to Registration.

Right of transferees, chargees, devisees, etc., to registration.

69.—(1) Every trnsfer or charge signed by a registered owner or others claiming by transfer through, or under him, purporting to transfer or charge freehold or leasehold land, or an interest therein, capable of being registered, or purporting to transfer a charge, shall, until cut out by a conflicting registration, confer upon the person intended to take under such transfer or charge, a right to be registered as the owner of such land or charge, and where a person applies to be registered under this section, the proper Master of Titles may either forthwith, or after requiring such notices to be given as he deems expedient, register such applicant as owner, subject to such incumbrances, if any, as the condition of the title requires, notwithstanding that the transfer or charge has been executed or bears date prior to the entry of such transferor or chargor as the owner of the land or charge.

Application of devisees, etc., for registration.

(2) Any person claiming to be entitled to freehold or leasehold land, or to an interest therein, capable of being registered, or to a charge, as devisee, heir, executor or administrator of a person who might have been registered under subsection 1, or any person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land, interest or charge, and if no conflicting registration has been made, may be so registered subject to the provisions of this section.

Mode of entry.

(3) On registering the applicant, the Master shall, so far as practicable, enter on the register short particulars of every instrument or other title under which the right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and as a preliminary step to the registration of the applicant, may enter any intermediate transferee, heir, executor or administrator, as registered owner, where that method is more convenient.

All persons entitled must apply.

(4) No application by a person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are to be entered as owners. R.S.O. 1897, c. 138, s. 71.

Entry of persons taking by transmission from unregistered owner.

(5) The Master may in like manner enter as owner of freehold or leasehold land or of a charge any person who is entitled to such land or charge through the death of the owner, although the deceased had not been registered as owner, or any person who is entitled by virtue of the exercise of any power conferred by a statute, will, deed, or other instrument, whether the person so entitled claims directly from the deceased or directly under the power, or through any other person entitled by virtue of the death or power or through a succession of transfers or transmissions. 1 Edw. VII. c. 16, s. 2.

Notice of Lease.

Lessee may apply for registration of notice of lease.

Imp. 38 & 39 V., c. 87, s. 50.

70.—(1) Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land where the term is for a life or lives, or is determinable on a life or lives, or where the period of the lease or agreement yet to run is three years or upwards, or where the occupation is not in accordance with such lease or agreement may apply to the proper Master of Titles to register notice of such lease or agreement in the prescribed manner. R.S.O. 1897, c. 138, s. 72 (1); 7 Edw. VII. c. 30, s. 8.

Manner of registering notices of leases.

Imp. 38 & 39 V., c. 87, s. 51.

(2) Where the lease is by the registered owner of the land, the Master may without notice to him enter on the register such notice thereof as he deems necessary.

(3) Where the lease is not by the registered owner but his title appears to be subject thereto, or in the case of an agreement for a lease, the Master upon notice to such owner may enter notice of the lease or agreement on the register.

(4) The applicant shall deliver to the Master the original lease or agreement or a copy thereof; and if the applica-

tion is granted the Master shall make a note on the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given. R.S.O. 1897, c. 138, s. 73 (1); 7 Edw. VII. c. 30, s. 9.

(5) If the registered owner concurs in a registration under subsection 2 or subsection 3, notice may be entered in such manner as may be agreed upon. R.S.O. 1897, c. 138, s. 73 (2).

(6) When so registered every registered owner of the land and every person deriving title through him, excepting owners of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an incumbrance on the land, in respect of which the notice is entered.

(7) Where notice of such lease or agreement has been registered the Master, on proof, to his satisfaction of the determination of the lease or agreement, shall in the prescribed manner note the determination on the register. R.S.O. 1897, c. 138, s. 72 (2-3).

(8) Where a notice of a lease or of an agreement for a lease has been registered under this section, a transferee or a chargee of the lease or agreement may apply to have a notice of his transfer or charge entered on the register. *New.*

(9) Uuless the transferee or chargee has actual notice of a prior transfer or charge, a transfer or charge in respect of which a notice has been entered, shall take priority of one of which notice has not been entered. *New.*

Notice of Estates in Dower or by the Curtesy.

Registration of notices of estates in dower or by the curtesy. Imp. 38 & 39 V., c. 87, s. 52.

71. Any person entitled to an estate in dower or by the curtesy in any registered land, may apply in the prescribed manner to the proper Master of Titles to register notice of such estate; and the Master, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly. R.S.O. 1897, c. 138, s. 74.

Caution against Registered Dealings.

Caution against regis-

72.—(1) Any person interested in any way in any land or charge registered in the name of any other person, may

tered dealings, how to be lodged. Imp. 38 & 39 V., c. 87, s. 53.

lodge a caution with the proper Master of Titles to the effect that no dealings with such land or charge be had on the part of the registered owner or other named person who is shown to have an interest in the land until notice has been served upon the cautioner. R.S.O. 1897, c. 138, s. 75 (1); 7 Edw. VII. c. 30, s. 10.

(2) The caution shall be supported by an affidavit made by the cautioner or his agent or solicitor in the prescribed form, and containing the prescribed particulars.

(3) A person interested under a lease, or agreement for a lease, of which notice has been entered on the register, or a person entitled to an estate in dower, or by the curtesy, of which notice has been entered on the register, shall not be entitled to lodge a caution in respect of such lease or agreement or estate in dower or by the curtesy.. R.S.O. 1897, c. 138, s. 75.

(4) Every caution founded upon an execution or upon an allegation that a transfer, charge or other dealing is fraudulent shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect, and every such caution lodged five years before the passing of this Act shall, unless renewed, cease to have effect one year from the passing of this Act. *New.*

Cautioner entitled to notice of proposed registered dealings. Imp. 38 & 39 V., c. 87, s. 54.

73.—(1) After any such caution has been lodged, the proper Master of Titles shall not, without the consent of the cautioner, register any dealing with the land or charge until after notice to the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next ensuing the date at which the notice is served.

(2) After the expiration of such time the Master shall enter a cessation of the caution unless good cause for its continuance is shown. *New.*

(3) Upon the caution so ceasing, the land or charge shall be dealt with in the same manner as if no caution had been lodged.

When notice of proposed registered dealings need not be given to cautioner.

(4) A notice to a cautioner shall not be required where the dealing proposed to be registered is under the authority of a judgment or order of court in a suit or proceeding to which the cautioner is a party, or where such dealing is under a power of sale contained in a charge or mortgage which is prior to the title under which the cautioner claims, and the cautioner has been served with a notice of the pro-

posed exercise of the power of sale, and the caution is not in respect of the exercise of the power of sale, or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution.

(5) The Master upon receiving the consent of the cautioner to the registration of a dealing may discharge the caution unless the consent provides for its continuance, or he may discharge the caution as to the land or charge to which the dealing applies, but he shall not do so where from the nature of the dealing he is of opinion that the continuance of the caution is contemplated. *New.* R.S.O. 1897, c. 138, s. 76.

Registered owner objecting to the registration of his transferee.

74.—(1) Where the registered owner of any freehold or leasehold land has executed a transfer or a charge thereof, but claims that on account of special circumstances shown by affidavit the transferee or chargee should not be registered without notice to the registered owner, the proper Master of Titles may permit the registration of a caution by the registered owner. R.S.O. 1897, c. 138, s. 77 (1); 7 Edw. VII. c. 30, s. 11.

(2) The registration of such caution shall stay the registration of the transfer until such notice has been served on the cautioner in accordance with the provisions of section 73. R.S.O. 1897, c. 138, s. 77, (2).

Registered dealings delayed on security being given.

Imp. 38 & 39 V. c. 87, s. 55.

75. If before the expiration of the prescribed period the cautioner or some person on his behalf, appears before the proper Master of Titles, and within such period, or such additional period as the Master may allow, gives sufficient security to indemnify every person against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the Master may delay registering any dealing with the land or charge for such further period as he deems just, or may instead of taking the security register such dealing, subject to the caution on any condition which he thinks fit to impose, as to security or otherwise, or may make such other order as he deems just. R.S.O. 1897, c. 138, s. 78; 7 Edw. VII. c. 30, s. 12 (1).

Entry of second caution.

76. A second caution by the same cautioner, or by any other person in respect of the same matter, shall not be lodged, or if lodged shall not be entered, or have any effect without the special permission of the proper Master of Titles, which may be given either upon terms or without terms, as he may think proper. R.S.O. 1897, c. 138, s. 79; 7 Edw. VII. c. 30, s. 12 (2).

Sale of Standing Timber.

Sale of standing timber.

77. Where timber standing upon registered land is sold under an agreement in writing, the purchaser, instead of entering a caution, may deposit the agreement with the proper Master of Titles, and the Master, upon proof of the due execution thereof by the owner, shall register the same as an incumbrance upon the land by entering a memorandum upon the register referring to the instrument and giving shortly the effect thereof. R.S.O. 1897, c. 138, s. 80.

Inhibition against Registered Dealings.

Power of court or master to inhibit registered dealings.

Imp. 38 & 39 V., c. 87, s. 57.

78.—(1) The Court or the proper Master of Titles upon the application of any person interested, made in the prescribed manner in relation to any registered land or charge, after directing such inquiries, if any, to be made and notices to be given, and after hearing such persons as the Court or Master deems expedient, may issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with registered land or with a registered charge.

(2) The Court or the Master may make an order or an entry, and may impose any terms or conditions which may be deemed just, and may discharge the order or cancel the entry, with or without costs, and generally act in the premises in such manner as the justice of the case requires. R.S.O. 1897, c. 138, s. 81.

Power of Registered Owner to Impose Restrictions.

Power to place restrictions on register.

Imp. 38 & 39 V., c. 87, s. 58.

79.—(1) Where the registered owner of freehold or leasehold land or of a charge desires to place restrictions on transferring or charging the land or charge, he may apply to the proper Master of Titles to make an entry on the register that no transfer shall be made or charge created unless the following things, or such of them as the owner may determine, are done; that is to say—

(*a*) Unless notice of any application for a transfer or for the creation of a charge is transmitted by registered post to such address as he may specify to the Master;

(*b*) Unless the consent of some person or persons, to be named by the owner, is given to the transfer or the creation of a charge; or

(*c*) Unless some other matter or thing is done as may be required by the applicant and approved by the Master. R.S.O. 1897, c. 138, s. 82; 7 Edw. VII. c. 30, s. 13.

Master to enter restrictions in register.

(2) If the Master is satisfied of the right of the applicant to give such directions, he shall make a note of them on the register, and no transfer shall be made or charge created except in conformity therewith. Imp. 38 & 39 V., c. 87, s. 59.

(3) The Master shall not be required to enter any direction, except upon such terms as to payment of the fees and otherwise as may be prescribed, or to enter any restriction that he may deem unreasonable, or calculated to cause inconvenience.

(4) Any such direction may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in such direction, and shall also be subject to be set aside by the Court. R.S.O. 1897, c. 138, s. 83; 7 Edw. VII. c. 30, s. 13.

PART VI.

SUPPLEMENTAL PROVISIONS.

Notice of Registered Instruments.

Notice by registration.

80. No person other than the parties thereto shall be deemed to have any notice of the contents of any instruments other than those mentioned in the existing register of title of the parcel of land or which have been duly entered in the books of the office kept for the entry of instruments received or are in course of entry. R.S.O. 1897, c. 138, s. 84.

Caution Against Entry of Land on Register.

Caution against registration of land.

81.—(1) Any person having or claiming such an interest in any unregistered land as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the proper Master of Titles to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land. Imp. 38 & 39 V., c. 87, s. 60.

Renewal of every five years.

(2) Every caution under this section shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect.

(3) No caution registered under this section in respect of any unpatented land shall be of any validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the Patent, or describes the same in such manner that the Master may know that the description in the caution is intended to affect the land described in the Patent. R.S.O. 1897, c. 138, s. 85. *Amended.*

Cautions as to Actions Pending.

Lis pendens not to be registered.

82. A certificate of *lis pendens* affecting land shall not be registered, but any party to an action, or his solicitor, or any person claiming to be interested in the action, may lodge a caution subject to the same conditions as in other cases. R.S.O. 1897, c. 138, s. 86.

General Provisions as to Cautions.

Cautioner entitled to notice of proposed registration of land.

Imp. 38 & 39 V., c. 87, s. 62.

83. After a caution has been lodged in respect of any unregistered land, and while the same is in force, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose such registration, and until the prescribed time has elapsed after the date of the service of such notice, or the cautioner has appeared, whichever may first happen. R.S.O. 1897, c. 138, s. 88.

Caution to be supported by affidavit.

Imp. 38 & 39 V., c. 87, s. 61.

84. Every caution shall be supported by an affidavit in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution, and such other matters as may be prescribed. R.S.O. 1897, c. 138, s. 87.

Caution Wrongfully Lodged.

Compensation for improper lodging of caution.

Imp. 38 & 39 V., c. 87, s. 63.

85. Any person who lodges a caution without reasonable cause shall be liable to make to any person who may sustain damage by the lodging of such caution such compensation as may be just; and such compensation shall be deemed to be a debt due from the person who has lodged the caution to the person who has sustained damage. R.S.O. 1897, c. 138, s. 89.

Effect of caution.

Imp. 38 & 39 V., c. 87, s. 64.

86.—A caution shall not prejudice the claim or title of any person, and shall have no effect except as in this Act provided. R.S.O. 1897, c. 138, s. 90.

Costs.

87.—(1) Any applicant under this Act shall be liable *prima facie* to pay all costs, charges, and expenses incurred by or in consequence of his application, except where parties whose rights are sufficiently secured without their appearance object, or where any costs, charges or expenses are incurred unnecessarily or improperly. Payment of costs. Imp. 38 & 39 V., c. 87, s. 73.

(2) The proper Master of Titles may order costs, either as between party and party, or as between solicitor and client to be paid by or to any person, party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid, regard being had to the provisions of subsection 1.

(3) Any person aggrieved by an order of the Master made under this section may appeal in the prescribed manner to the Court, which may annul or with or without modification, confirm the order of the Master. R.S.O. 1897, c. 138, s. 91.

(4) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court, and thereupon, subject to such right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the Court. R.S.O. 1897, c. 138, s. 92. Enforcement of order.

Doubtful Questions of Law or Fact.

88.—(1) Where upon the examination of a title or upon an application with respect to registered land the proper Master of Titles entertains a doubt as to any matter of law he may state a case for the opinion of the Court and may name the parties to it; and where he entertains a doubt as to any matter of fact he may apply to the Court to direct an issue to matter of fact he may direct an issue to be tried for the purpose of determining such facts. R.S.O. 1897, c. 138, ss. 93-94; 7 Edw. VII. c. 30, s. 14. *Amended.* Master may state a case for opinion of court, or apply for direction to try the issue. Imp. 38 & 39 V., c. 87, c. 74.

(2) The practice and procedure on and incidental to a case stated or on an issue directed under this section and the right to appeal from the judgment or other determination thereof shall be the same as on a special case or on an issue directed in an action. *New.*

(3) The powers conferred by this section shall not be exercised by a local Master of Titles except with the approval of the Inspector. *New.*

Intervention of Court in case of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 76.

89.—(1) Where any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or person yet unborn is interested in the land in respect of the title to which a question arises, any person interested in the land may apply to the Court for a direction that the opinion of the Court to which the case is stated under this Act shall be conclusively binding on such infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person. R.S.O. 1897, c. 138, s. 95.

Power of Court to bind interests of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 77.

(2) The Court shall hear the allegations of all parties appearing before it, and may disapprove altogether, or may approve, either with or without modification, of the directions of the proper Master of Titles in respect to any case stated as to the title of land.

(3) The Court may also, if necessary, appoint a guardian or other person to appear on behalf of any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person.

(4) The Court, if satisfied that the interests of the person under disability, absent, or unborn, will be sufficiently represented in any case, shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound; and thereupon all persons, with such exceptions, shall be conclusively bound by the decision of the Court. R.S.O. 1897, c. 138, s. 96.

Certificates of Ownership, Office Copies of Leases, and Certificates of Charge.

Loss of Land certificate, or certificate of charge, or office copy of lease.

Imp. 38 & 39 V., c. 87, s. 78.

90. If any certificate of ownership or office copy of a registered lease or certificate of charge is lost, mislaid, or destroyed, the proper Master of Titles, upon being satisfied of that fact, may grant a new certificate of ownership or office copy or certificate of charge in place of the former one. R.S.O. 1897, c. 138, s. 98.

Renewal of land certificate, or certificate of charge, of office copy of lease.

Imp. 38 & 39 V., c. 87, s. 79.

91. The proper Master of Titles, upon the delivery up to him of a certificate of ownership, or of an office copy of a registered lease or of a certificate of charge, may grant a new certificate of ownership or office copy of lease or certificate of charge in place of the one delivered up. R.S.O. 1897, c. 138, s. 99.

Land certificate, certificate of charge, and office copy of

92. A certificate of ownership or certificate of charge shall be *prima facie* evidence of the matters therein contained, and the office copy of a registered lease shall be

evidence of the contents of the registered lease. R.S.O. 1897, c. 138, s. 100.

lease to be evidence. Imp. 38 & 39 V., c. 87, s. 80.

93. Subject to any registered estates, charges, or rights the deposit of the certificate of ownership in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land for the purpose of creating a lien on the land to which such certificate or lease relates, shall be deemed equivalent to a deposit of the title deeds of the land. R.S.O. 1897, c. 138, s. 101.

Effect of deposit of land certificate, or of office copy of lease. Imp. 38 & 39 V., c. 87, s. 81.

Incorporeal Hereditaments, Mining Rights and Easements.

94.—(1) The proper Master of Titles may register the owner of any incorporeal hereditament of freehold tenure, enjoyed in gross, also the owner of any mines or minerals where the ownership of the same has been severed from the ownership of the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register the owner of land, or as near thereto as circumstances admit. R.S.O. 1897, c. 138, s. 102.

Registry of special hereditaments. Imp. 38 & 39 V., c. 87, s. 82.

(2) Where an easement in or over unregistered land is granted as appurtenant to registered land, the Master, after such examination as he deems necessary, may enter such easement in the register of the dominant land with a declaration that the title thereto is absolute, qualified or possessory, or otherwise as the case may require, and shall cause to be registered in the proper registry division a certificate of such entry.

Registration of easements when dominant land registered.

(3) Where an easement in or over registered land is granted as appurtenant to unregistered land the Master may issue a certificate setting out such easement and the land to which it is appurtenant, which may be registered in the registry division in which the land is situate and he shall note on the register that such certificate has been issued. 7 Edw. VII. c. 30, s. 15.

Certificate of easement when dominant land unregistered.

General Provisions.

95.—(1) There shall not be entered on the register or be receivable any notice of any trust, express, implied, or constructive.

Enactment as to registration. Imp. 38 & 39 V., c. 87, s. 83.

(2) Describing the owner of any freehold or leasehold land or of any charge as a trustee, whether the beneficiary or object of the trust is or is not mentioned, shall not be deemed a notice of a trust within the meaning of this section, nor

Trusts.

shall such description impose upon any person dealing with such owner the duty of making any enquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise; but, subject to the registration of any caution or inhibition, such owner may deal with the land or charge as if such description had not been inserted.

(3) Where two or more owners are described as trustees, the property shall be held to be vested in them as joint tenants unless the contrary is expressly stated. R.S.O. 1897, c. 138, s. 103, par. 1; 2 Edw. VII. c. 19, s. 1.

(4) Nothing in this section shall prevent the registration of a charge given by an incorporated company for the purpose of securing bonds or debentures of the company. 9 Edw. VII. c. 26, s. 15.

Undivided shares.

96.—(1) No person shall be registered as owner of any undivided share in any freehold or leasehold land or of any charge apart from the other share or shares.

(2) The share of each owner may be stated, and where the extent of his interest appears on the register, or by the statement of his co-owners, he may transfer or charge his share, or he may without such statement transfer his share to his co-owners. R.S.O. 1897, c. 138, s. 103, pars. 1 and 2. *amended.*

97.—(1) Where the number of persons who may be registered as the owners of the same freehold or leasehold land or charge is limited by a Rule, a number of persons exceeding the number prescribed shall not be registered as owners of such land or charge; and if the number of persons shewing title exceeds the prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or as the proper Master of Titles in case of difference decides, shall be registered as owners.

(2) Upon the registration of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register, to the effect that when the number of such owners is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the Court.

'No survivorship."

(3) In such a case the words "No survivorship" in the entry shall be construed to mean that if any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the Court. R.S.O. 1897, c. 138, s. 103, pars. 3, 4, 5.

98.—(1) Registered land shall be described in such manner as the proper Master of Titles deems best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the land. Description of land.

(2) No alteration shall be made in the registered description of land, except under the order of the Court, or under section 119, or by way of explanation, or under Rules of Court; but this provision shall not extend to registered dealings with registered land in separate parcels, although such land was originally registered as one parcel. R.S.O. 1897, c. 138, s. 103, pars. 6, 7.

99.—(1) There may be registered as annexed to any land which is being or has been registered, subject to general rules and in the prescribed manner, a condition or covenant that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land. R.S.O. 1897, c. 138, s. 104 (1); 7 Edw. VII., c. 30, s. 16 (1). Annexation of conditions or covenants to registered land. Imp. 38 & 39 V., c. 87, s. 84.

(2) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant; but any such condition or covenant may be modified or discharged by order of the Court, on proof to the satisfaction of the Court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant. R.S.O. 1897, c. 138, s. 104.

(3) The entry on the register of a condition or covenant as running with or annexed to land shall not make it run with the land, if such covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land. Covenants or conditions running with land.

(4) Where a condition or covenant has been entered on the register as annexed to or running with land, and a similar condition is contained in a subsequent transfer or a similar covenant is in express terms entered into with the owner of the land by a subsequent transferee, or *vice versa*, it shall not be necessary to repeat such condition or covenant on the register or to refer thereto, but the proper Master of Titles may, upon a special application, enter such condition or covenant either in addition to or in lieu of the condition or covenant first mentioned. 7 Edw. VII., c. 30, s. 16 (2). Subsequent transfers.

100. All the provisions of *The Trustee Act* which are not inconsistent with the provisions of this Act shall apply Registered land to be within Rev. Stat. c. 129.

Imp. 38 & 39 V., c. 87, s. 85.

to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of that Act relating to land or choses in action. R.S.O. 1897, c. 138, s. 105.

Indemnity of Master of Titles.

Imp. 38 & 39 V., c. 87, s. 86

101. Neither the Master of Titles, nor any Local Master of Titles, or any person acting under their authority, or under any order of Court or general rule, shall be liable to any action, suit, or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Act, or of any such order or general rule. R.S.O. 1897, c. 138, s. 106.

Instruments need not be Sealed.

Charges and transfers may be made without seal.

102. Notwithstanding the provisions of any statute, or any rule of law, any charge or transfer of land registered under this Act may be duly made by an instrument not under seal, and if so made, the instrument and every agreement, stipulation and condition therein shall have the same effect for all purposes as if it were made under seal. R.S.O. 1897, c. 138, s. 107. *Amended.*

Married Women.

Execution of instruments by married women.

103. A married woman shall for the purposes of this Act be deemed a *feme sole,* and may execute without seal any bar of dower or other instrument required under this Act. R.S.O. 1897, c. 138, s. 108.

Persons under Disability.

Where any party is a minor or lunatic, guardian, etc., may act.

Imp. 38 & 39 V., c. 87, s. 88.

104.—(1) In case any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is an infant, an idiot, or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceedings as such person, if free from disability, might have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

Official guardian to act if no guardian, etc., or Master may appoint some person.

(2) If the infant has no guardian, or the idiot or lunatic has no committee of his estate, or if a person yet unborn is interested, the official guardian shall act with like power, or the proper Master of Titles may appoint a person with like power to act for the infant, idiot, lunatic, or person yet unborn. R.S.O. 1897, c. 138, s. 97.

Plans.

Plan of lots to be sold by plan to be registered

105.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall register in the proper Land Titles Office a plan of the land on a scale of not less than one inch to every four chains.

Lot number to be shown.

(2) The plan shall show in black India ink the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land being subdivided, except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show in ink of another colour the numbers or other distinguishing marks of the lot or lots subdivided and by broken lines the boundary lines thereof.

Each lot to be numbered and scale shown.

(3) The number or other distinguishing mark, and the width both front and rear shall be marked on each lot of the subdivision in black India ink, the scale shall also be marked on the plan, and such information as will show the depth of the lots and the courses of all the boundaries of or the division lines between the same, and the governing line or lines to which such courses are referred shall also be indicated.

Posts or monuments.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

Roads, railways, rivers, etc.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, mill-ponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land.

No two lots to have same number.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by numbers the lots shall be numbered consecutively.

To show what land is laid out.

(7) The plan shall also show distinctly what land is being laid out thereby, and shall by proper colouring distinguish such land from all other land shown on the plan, but not in fact laid out thereby, and the last mentioned land shall be shown uncoloured.

Mounting and size of plan.

(8) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size, and no such plan shall be less than twenty-four inches in length or twelve inches in width.

To be signed by owner and certified by land surveyor.

(9) The plan before being registered shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall be certified by an Ontario Land Surveyor in the prescribed form.

Master may require explanation.

(10) The proper Master of Titles, before filing the plan, may require evidence to be given explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter of which he requires explanation. *New.*

See 10 Edw. VII., c. 60, s. 80.

Delivery of plans to municipal treasurers.

(11) Every person who deposits a plan of any survey or subdivision of land made by such person for the purpose of selling or conveying the same in lots, or of any alteration of a previous survey or subdivision, shall at the same time deposit a duplicate of such plan, and the Master shall endorse thereon a certificate showing the number of such plan and the date when the duplicate original thereof was filed with him, and the same shall be delivered by the Master to the treasurer, or assessment commissioner of the local municipality in which the land is situate upon request and without fee.

(12) The Master shall not file or register any plan unless and until a duplicate thereof is deposited in accordance with the provisions of subsection 11. R.S.O. 1897, c. 138, s. 109.

Master may require plan to be registered in certain cases.

106.—(1) In cases not provided for by section 105, the proper Master of Titles may require a person applying for registration to deposit a plan of the land, with the several measurements marked thereon, certified by an Ontario Land Surveyor, and as many counterparts as may be required, upon one of the following scales:—

Rules 50 and 51 made under Imp. Act 38 and 39 V.,

(*a*) If the land, or the part thereof proposed to be transferred or dealt with, is of less area than one acre, the plan shall be on a scale not less than one inch to two chains;

(*b*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, the plan shall be on a scale not less than one inch to five chains;

(*c*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, the plan shall be on a scale not less than one inch to ten chains;

(*d*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than eighty acres, the plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the plan and verify its accuracy before some person authorized under section 132.

(3) If the owner neglects or refuses to comply with such requirements, the Master may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent subdivisions of the same land may be delineated upon a duplicate of the plan so deposited, if the scale upon which it is drawn permits of that being done in conformity to the provisions of subsection 1; and the accuracy of the delineation of each such subdivision shall be certified and verified in the manner prescribed by subsections 1 and 2.

(5) Where the land of which a plan is directed to be deposited includes parts of different subdivisions, the plan shall represent the whole of each subdivision and shall indicate the location of the land to be transferred; but this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered, unless the Master otherwise directs.

See Rules No. 67.

Plan of street, road, lane, or common.

107. In case a plan of subdivision lays out any portion of the land as a street, road, lane or common, it shall not be registered unless on the application of the owner of the land subdivided, with the consent in writing of all persons who are registered as mortgagees or chargees thereof. Vide R.S.O. 1897, c. 136, s. 102 (4).

Instruments must conform to plan.

108. All instruments affecting the land or any part thereof lodged with the proper Master of Titles after a plan

is registered, shall conform and refer thereto, or registration shall not be had thereunder, unless the Master under special circumstances deems it proper to accept the same. *New.*

Filing plans with roads less than 66 feet in width.

109. No plan upon which a road, street or highway less than 66 feet wide is laid out shall be registered unless and until the assent of the proper municipal council is registered therewith where such assent is by law necessary, and no plan upon which a street, road or lane is laid out shall be filed in any such office unless there is filed therewith the approval of the proper municipal council or unless such plan is approved by a Judge of the County or District Court of the county or district in which the land lies, where the same is not in the County of York or City of Toronto, or by the Master of Titles where the land is in the County of York or City of Toronto, after notice in each case to the proper municipal council. R.S.O. 1897, c. 138, s. 110; 8 Edw. VII., c. 38, s. 1.

Plan not binding unless sale made according to it.

110.—(1) No plan, although registered in an office of Land Titles, shall be binding on the person registering the same, or upon any other person, unless a sale has been made according to such plan; and in all cases amendments or alterations thereof may be ordered to be made at the instance of the person registering the same or his assigns,

Amendment of plans.

(*a*) By the High Court, or by a Judge thereof,

(*b*) Where the land is not in the County of York or City of Toronto, by a Judge of the County or District Court of the county or district in which the land lies, or

(*c*) Where the land is in the County of York or City of Toronto by the Master of Titles,

if on application for the purpose duly made, and upon hearing all persons concerned, it is thought just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed just and expedient.

(2) An appeal shall lie from any such order to the Court of Appeal. R.S.O. 1897, c. 138, s. 111.

Transfer of plans from registry offices.

111. Where all the lots on any plan of subdivision registered in a registry office are registered under this Act, the proper Master of Titles may require the Registrar to deliver the plan to him to be registered in his office; and the Registrar shall thereupon deliver the same, taking a receipt therefor. R.S.O. 1897, c. 138, s. 112.

Notices.

Address of persons on register.

112.—(1) Every person whose name is entered on the register as owner of freehold or leasehold land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish a place of address in Ontario, and may from time to time substitute some other place of address in Ontario for that originally furnished.

Imp. 38 & 39 V., c. 87, s. 89.

(2) If any such person fails to furnish a place of address for service, a notice sent by post addressed to such person at the place named in the registered instrument under which he claims, as his place of residence, shall be sufficient, unless the proper Master of Titles otherwise directs. R.S.O. 1897, c. 138, s. 113.

Service of notices.

(3). Every notice by this Act required to be given to any person shall be served personally, or sent by registered post directed to such person at the address or last address, as the case may be, furnished, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of posting, as may be prescribed. R.S.O. 1897, c. 138, s. 114.

Imp. 38 & 39 V., c. 87, s. 90.

Return of notices by post-office.

(4) The envelope containing any notice under this Act shall have printed thereon the words " Office of Land Titles," and a request in the prescribed manner for the return thereof to the office of Land Titles, in case the person to whom the notice is addressed cannot be found.

Imp. 38 & 39 V., c. 87, s. 91.

(5) On the return of any envelope containing any notice, the Master shall act in the matter requiring the notice to be given in the manner prescribed. R.S.O. 1897, c. 138, s. 115.

Purchasers for value not affected by omission to send notices.

113. A purchaser for valuable consideration when registered shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof. R.S.O. 1897, c. 138, s. 116.

Imp. 38 & 39 V., c. 87, s. 92.

Specific Performance.

Power of court in action for specific performance.

114.—(1) Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the Court having cognizance of the action may by such mode as it deems expedient, cause all or any persons who have registered estates or rights in the land or charge, or have entered notices, cautions or inhibitions against the same, to appear in the action, and shew cause why the contract should not be specifically performed; and the Court may direct that any order made by the Court in the action shall be binding on such persons or any of them. R.S.O. 1897, c. 138, s. 117.

Imp. 38 & 39 V., c. 87, s. 93.

Costs in action for specific performance.

Imp. 38 & 39 V., c. 87, s. 94.

(2) All costs awarded to any person so appearing may, if the Court so orders, be taxed as between solicitor and client. R.S.O. 1897, c. 138, s. 118. *Amended.*

Rectification of the Register.

Establishment of adverse title to land.

Imp. 38 & 39 V., c. 87, s. 95.

115. Subject to any estates or rights acquired by registration in pursuance of this Act, where any Court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision the Court is of opinion that a rectification of the register is required, the Court may make an order directing the register to be rectified in such manner as may be deemed just. R.S.O. 1897, c. 138, s. 119.

Register to be rectified under order of court.

Imp. 38 & 39 V., c. 87, s. 96.

116. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made, or by the omission of any entry from the register, or if default is made or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay, may apply to the Court in the prescribed manner for an order that the register may be rectified; and the Court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, make an order for the rectification of the register. R.S.O. 1897, c. 138, s. 120.

Master to obey orders of court.

Imp. 38 & 39 V., c. 87, s. 97.

117. The Master of Titles and the Local Masters of Titles shall obey the order of any competent Court in relation to any registered land, on being served with the order or an office copy thereof. R.S.O. 1897, c. 138, s. 121.

Cancellation of fraudulent entries.

118.—(1) Upon the conviction under this Act, or under the Criminal Law of Canada, of any person for an offence whereby such person fraudulently procured an entry on the register by reason of which any person other than the rightful owner has become the registered owner of land, or by reason of which land under this Act has been wrongfully incumbered, the proper Master of Titles, on the application of the rightful owner, may cancel such wrongful entry and may enter the rightful owner as the registered owner of the land.

Where land has been transferred to innocent holder.

(2) If while the wrongful entry was subsisting on the register any innocent person has been registered as the owner of any charge upon, or any estate, right or interest in the land, the Master, instead of cancelling the wrongful

entry may make an entry on the register stating the fact of the conviction and revesting the land in the rightful owner subject to such charge, estate, right or interest, and the land shall thereupon be vested in the person named in such last mentioned entry in accordance with the terms thereof.

(3) This section shall apply to past as well as future cases. 1 Edw. VII., c. 16, s. 1.

Entry of caution by Master in case of error.

119.—(1) The proper Master of Titles may *sua sponte* and without affidavit enter a caution to prevent the dealing with any registered land when it appears to him that an error has been made in any entry by mis-description of such land, or otherwise.

Correction of errors.

(2) Subject to the rules the Master, before the receipt of any conflicting instrument, or after notifying all persons interested, upon such evidence as appears to him sufficient, may correct errors and supply omissions in certificates of ownership or of charge, or in the register, or in any entry therein, and may call in any outstanding certificate for that purpose. R.S.O. 1897, c. 138, s. 122.

Restoration of covenants or conditions and compensation therefor.

(3) Where the Master under this section restores to the register any covenant or condition he may do so with such modifications as he deems advisable so as to do the least possible injury to the persons affected by their omission, or by their restoration, and upon notice to the Attorney-General for Ontario, at the same time or subsequently may determine what damages, if any, shall be paid to any of the persons claiming to have been injuriously affected by the omission of the covenants or by their restoration. 2 Edw. VII., c. 19, s. 2.

Correction of errors in patents after registration. Rev. stat. c. 28.

120. Where land has been registered under this Act, and the Minister of Lands, Forests and Mines under *The Public Lands Act* directs an incorrect patent to be cancelled and a correct one to be issued in its stead, the proper Master of Titles, upon receipt of the subsequent patent, if no conflicting instrument has been received, shall amend the entry on the register to accord with the amending patent, or if a conflicting instrument has been received, the Master, after notifying all persons interested, may make such amendment. R.S.O. 1897, c. 138, s. 123.

Fraud.

Fraudulent dispositions. Imp. 38 & 39 V., c. 87, s. 93.

121. Subject to the provisions of this Act with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which, if unregis-

tered, would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. R.S.O. 1897, c. 138, s. 124.

Certain fraudulent acts declared to be offences.

Imp. 38 & 39 V., c. 87, s. 100.

122.—(1) Any person who fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, shall be guilty of an offence under this Act, and upon conviction shall be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding $1,000 as the Court before which he is tried may adjudge.

(2) Any such entry, erasure, or alteration shall be void as between all parties or privies to the fraud. R.S.O. 1897, c. 138, s. 126. *Amended.*

See The Criminal Code, ss. 175 and 420, as to the fraudulent registration of titles and making false affidavits.

ASSURANCE FUND.

Assurance fund.

123.—(1) An Assurance Fund shall be formed for the indemnity of persons who may be wrongfully deprived of land or some estate or interest therein by reason of the land being brought under the provisions of this Act, or by reason of some other person being registered as owner through fraud, or by reason of any misdescription, omission, or other error in a certificate of ownership or of charge or in any entry on the register. R.S.O. 1897, c. 138, s. 130 (1).

Assurance fund, how constituted.

(2) In order to constitute such fund, there shall be payable on the first registration under this Act of any land with an absolute or qualified title, in addition to all other fees a sum equal to one-fourth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-tenth of one per cent. of the value of the buildings and fixtures, and with a possessory title one-eighth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-twentieth of one per cent. of the value of the buildings and fixtures. 3 Edw. VII., c. 12, s. 5.

(3) Where the sum to be paid under the foregoing provision does not amount to $1, the amount payable shall be $1. 3 Edw. VII., c. 12, s. 5.

(4) Subject to the rules, money payable under subsections 2 and 3 shall be paid into Court, with the privity of the Accountant of the Supreme Court, and shall be placed to

the credit of an account to be intituled "Assurance Fund under the Land Titles Act," and subject to the provision of subsection 5, shall be invested from time to time under the direction of the Court, and the interest or income derived therefrom shall be credited to the same account. R.S.O. 1897, c. 130, s. 130 (3).

(5) All money paid under this section, and in Court at the credit of the "Assurance Fund" and all money hereafter payable under this section shall, on his demand, be paid to the Treasurer of Ontario. 10 Edw. VII., c. 61, *part*.

(6) Where the amount to be paid into the assurance fund is not more than $10, no fee shall be payable for a direction to the bank to receive the same, and where such amount is payable in respect of a proceeding before a Local Master of Titles, the person desiring to pay the same may, at his own risk, transmit the amount by a money order, payable to "The Accountant of the Supreme Court at Toronto," in a registered letter addressed to the Accountant, together with a requisition in the prescribed form.

Valuation of the land by applicant.

(7) Subject to the rules the value of the land shall be ascertained by the oath of the applicant, unless the proper Master of Titles dispenses therewith.

Master may obtain valuation.

(8) Subject to the rules, if the oath of the applicant is dispensed with, or if the Master is not satisfied as to the correctness of the value stated by the oath of the applicant or of any other person, he may require the affidavit or certificate in that behalf of a sworn valuator; and such affidavit or certificate shall be conclusive.

(9) The expense of obtaining such valuation or certificate as allowed by the Master shall be paid to the Master by the registered owner, before any dealing with the land is registered. R.S.O. 1897, c. 138, s. 131.

Expenses of valuation.

(10) The Master may require any applicant for registration to indemnify the Assurance Fund against loss by a bond or covenant to His Majesty, either with or without sureties or by such other security as he considers expedient. R.S.O. 1897, c. 138, s. 130 (3-7). *Amended.*

Election to have fees for assurance funds made charge.

(11) It shall not be necessary that the assurance fees payable on first registration be then paid, but if not then paid the same shall be a charge on the land, and the amount with interest at 5 per cent. compounded annually shall be stated in the entry of ownership to be a charge on the land, and

no subsequent transfer or charge of the land or any transmission thereof, or any part thereof, shall be registered, except as is in this section provided, until the amount of such charge shall have been paid into the Assurance Fund and proper proof of such payment furnished to the Master, but this subsection shall not apply to cases coming within subsection 12.

Proviso.

(12) In the case of land situate in any of the Provisional Judicial Districts where the letters patent or a certified copy of the order in council granting the land has been forwarded to the Local Master of Titles for the purpose of registration, and the amount payable into the Assurance Fund is not paid, a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee, and no subsequent transfer or charge of the land or any transmission thereof shall be registered until such assurance fee, namely, a sum equal to one-fourth of one per cent. of the value at the time of payment of the land apart from the buildings or fixtures and one-tenth of one per cent. of the value of the buildings erected on or affixed thereto before the first registration thereof, but not in any case less than one dollar in respect of any parcel, is paid. R.S.O. 1897, c. 138, s. 171 (2); 6 Edw. VII., c. 19, s. 20 (2). *Amended.*

(13) Where land is sold for taxes, or upon the winding up of a company, or under execution, or under the order of a Court, the Master may register the new immediate ownership subject to such charge, and where part of a parcel is so sold or is expropriated he may, upon proof of payment of the proportion of such assurance fund charge which he deems to be fairly attributable to the part so sold or expropriated, note in the register the fact of such payment in respect of the land so sold or expropriated, and enter that part as free of the charge.

(14) Where land exceeding 400 acres is entered in one parcel the Master, upon a transfer of part of such parcel, may, in like manner, allow payment of a proportionate part of the assurance fees and enter the part transferred free of the charge. 3 Edw. VII., c. 12, s. 6, *amended;* 7 Edw. VII., c. 30, s. 21, *amended.*

Remedy of person wrongfully deprived of land.

124.—(1) Any person wrongfully deprived of land, or of some estate or interest therein, by reason of the land being brought under this Act, or by reason of some other person being registered as owner through fraud or by reason of any misdescription, omission or other error in any certificate of ownership or charge, or in any entry on the register, shall be entitled to recover what is just, by way of compensation

or damages, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error. R.S.O. 1897, c. 138, s. 132 (1); 7 Edw. VII., c. 30, s. 18.

(2) Subsection 1 shall not render liable any purchaser or mortgagee in good faith for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error, or having derived title from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise.

(3) If the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he shall be entitled to have the same paid out of the assurance fund, so far as the fund may be sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived; or, in the case of a person under the disability of infancy, lunacy or unsoundness of mind, within six years from the date at which the disability ceased.

(4) The liability of the fund for compensation and the amount of compensation shall, subject to appeal as in other cases, be determined by the Inspector, unless the Court or the Inspector on application directs some other way of ascertaining and determining the same.

(5) The costs of the proceedings shall be in the discretion of the Court or of the Inspector.

(6) Any sum paid out of the assurance fund may afterwards for the benefit of the fund be recovered by action in the name of the Inspector, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error or from his estate and the Inspector's certificate of the payment out of the assurance fund shall be sufficient proof of the debt, but where the erroneous registration was made or the title acquired by mere error and without fraud, credit shall be given for any sum which such person may have paid into the assurance fund. R.S.O. 1897, c. 138, s. 132 (2-5). *Amended.*

(7) Where a registered disposition would, if unregistered, be absolutely void, or where the effect of the error would be to deprive a person of land of which he is in possession, or in receipt of the rents and profits, the Inspector may in the first instance or after a reference to the Court Imp. Act, 60-61 V., c. 65, s. 7 (2).

Rectification of register.

direct the rectification of the register, and in case of such rectification the person suffering by the rectification shall be entitled to the compensation provided for by this section. 7 Edw. VII., c. 30, s. 17.

Valuation of mining lands where compensation claimed out of assurance fund.

125.—(1) Where any person makes a claim upon the assurance fund for compensation in respect of land patented as mining land or in respect of any land the chief value of which consists in the ores, mines or minerals therein and it appears that such person is entitled to recover in respect of such land or of some interest therein, in determining the amount of compensation to be paid to such person the entire value of the land shall not be taken at a greater sum than eight hundred times the amount of the fees paid into the assurance fund in respect of the land, either in the first instance or under the provisions of section 126.

(2) Where such fees or some part thereof were paid into the fund in respect of other land in addition to that for which a claim is so made without it appearang what amount was paid in respect of the particular parcel of land with reference to which the claim is made, the fees so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial contents of the whole parcel or of the various parcels in respect of which the fees were paid. R.S.O. 1897, c. 138, s. 133.

Additional payments into fund by transferee, etc.

126.—(1) Where any person taking a transfer or charge of any land coming within the provisions of the next preceding section is of the opinion that a value to be determined under such section would not furnish a fair basis for compensation in case of loss he may with the privity of the proper Master of Titles pay into Court to the credit of the assurance fund such further sum as shall with the amount previously paid into the assurance fund in respect of such land make up one-fourth of one per cent. of the value of the land at the time of making the payment, such value to be determined in the manner provided by section 123.

(2) No such additional payment shall be made except by special leave of the Master, unless the same is made within three months after the registration of the transfer or charge under which such person claims.

(3) No such payment shall affect the valuation of the land where the error which gives the right to compensation was committed before such payment was made. R.S.O. 1897, c. 138, s. 134.

(4) Where any additional payment is made under this section, the Master shall enter a memorandum of the particulars thereof in the margin of the entry of ownership, and shall in such entry show the total amount which has been paid into the fund in respect of such land. R.S.O. 1897, c. 138, s. 135. Entry to be made of additional payment.

127.—(1) No person shall be entitled to recover out of the assurance fund any compensation where No claim to compensation from assurance fund.

(*a*) The claim is founded upon a right existing at the time of the first registration of the land and the state of the title of the land at that time was such that the person who was first registered, or the person on whose nomination or authorization such registration was made by a duly registered conveyance could have conferred, as against the claimant, a valid title to a purchaser in good faith for valuable consideration without notice of any defect in the title; and no sufficient caution had been registered and was in force when the application for first registration was made or a patent was forwarded for registration and the proper Master of Titles had not actual notice of the defect prior to the first registration; When person first registered could have conveyed good title to purchaser for value without notice. Proviso. New Zealand Act, No. 57, 1885, s. 53.

(*b*) The claimant by direction of the Master or in accordance with the practice of the office had been served with a notice of the proceedings being had in the office, whether such proceedings were prior or subsequent to first registration and failed to appear in accordance with the requirements of the notice; or if the Master had adjudicated against him and he had failed to prosecute successfully an appeal against the Master's decision; Where claimant had notice of registration proceedings.

(*c*) The claimant has caused or substantially contributed to the loss by his act, neglect or default and the omission to register a sufficient caution, notice, inhibition or restriction to protect a mortgage by deposit or other equitable interest or any unregistered right, or other equitable interest or any unregistered interest or equity created under section 68 or otherwise shall be deemed neglect within the meaning of this clause. Where claimant's negligence has caused loss. Imp. Act, 60-6 V., c. 65, s. 7, subs. 3.

(2) In this section "Claimant" shall include the person actually making the claim and any person through whom

he claims who he alleges was wrongfully deprived of land or of some estate or interest therein. 3 Edw. VII., c. 12, s. 1.

128.—(1) The Treasurer of Ontario on receipt of the money paid to him under subsection 5 of section 123 shall issue to the Accountant of the Supreme Court in trust, Ontario Government Stock to an amount equal to the sum so received, and such stock shall represent the assurance fund and be available for the same purposes.

(2) The stock shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer as the Lieutenant-Governor in Council may deem advisable, and shall bear interest at the rate of two and one-half per centum per annum.

(3) The stock, together with the interest thereon shall be charged upon and paid out of the Consolidated Revenue Fund.

(4) All sums which become payable out of the assurance fund shall to the extent, but not exceeding the amount, of such fund be paid by the Treasurer of Ontario to the persons entitled thereto, out of the Consolidated Revenue Fund, on the production of an order of the Court or a Judge authorizing or directing the payment to be made or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly. 10 Edw. VII., c. 61, s. 1, *part*.

WITHDRAWING LAND FROM THE REGISTRY.

Application to withdraw registered land.

129.—(1) Where, after land has been registered, special circumstances appear, or subsequently arise, which make it inexpedient that the land should continue under this Act, the owner may apply in the prescribed manner to the proper Master of Titles for the withdrawal of the land from the Act.

Certificate by Master.

(2) If the owner proves before the Master that all persons interested in the land proposed to be withdrawn, consent to its withdrawal, and satisfies the Master that special circumstances exist which render the withdrawal of such land or a part thereof expedient, the Master may issue his certificate describing the land or such part thereof as the consent covers and as the Master deems proper, in such a manner that the certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued this Act shall

cease to apply to the land described therein, and the land shall thereafter be subject to the ordinary laws relating to real estate and to the registry laws.

(3) The certificate of a Local Master under this section shall not be valid unless approved and countersigned by the Inspector. Application of section.

(4) Upon the production of the certificate to the registrar of deeds and payment of a fee of $1, the same shall be duly registered. R.S.O. 1897, c. 138, s. 136. Registration of certificate.

(5) This section shall not apply to land registered under section 159.

ADMINISTRATION AND MISCELLANEOUS.

Office of Land Registry.

130. There shall be a seal for every office of Land Titles. R.S.O. 1897, c. 138, s. 137. Seal of office. Imp. 38 & 39 V., c. 87, s. 107.

131. The Inspector shall prepare and cause to be printed and promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. R.S.O. 1897, c. 138, s. 138. Master to frame and promulgate form. Imp. 38 & 39 V., c. 108.

132. The proper Master of Titles, or any officer of the office of Land Titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath for any of the purposes of this Act. R.S.O. 1897, c. 138, s. 139. Administration of oaths. 10 Edw. VII., c. 60.

133.—(1) The proper Master of Titles in any application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the Court, who may administer the requisite oath to any person whose deposition or cross-examination the Master has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the Master may be taken down by a sworn shorthand writer if the examining party so desires. R.S.O. 1897, c. 138, s. 140. Depositions taken before special examiners may be used before Master of Titles.

(2) The Master may name the witnesses to be examined or he may request the examiner to take the examination of all witnesses produced by any named person or persons or of any class of witnesses. *New.*

Power of Master to summon witnesses. Imp. 38 & 39 V., c. 109.

134.—(1) The proper Master of Titles, by summons under the seal of his office, may require the attendance of all such persons as he may think fit in any application made to him and may in the summons require any person to produce for inspection any document, deed, instrument or evidence of title to the production of which the applicant or any trustee for him is entitled. R.S.O. 1897, c. 138, s. 141 (1); 2 Edw. VII., c. 19, s. 3.

(2) He may also, by a like summons, require any person having the custody of any map, plan, or book made or kept in pursuance of any Statute to produce such map, plan, or book for his inspection.

(3) He may examine upon oath any person appearing before him; and he may allow to every person summoned by him reasonable charges for his attendance.

(4) Any charges allowed by the Master under this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

(5) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court; and thereupon such person may be punished by the Court in the same manner as if the order were the order of the Court. R.S.O. 1897, c. 138, s. 141 (2-5).

Non-attendance or refusal to answer questions. Imp. 38 & 39 V., c. 87, s. 110. 10 Edw. VII., c. 37.

(6) If any person, after the delivery to him of the summons, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons or to produce such map, deed, instrument, evidence of title, plan, book, or other document or to answer upon oath or otherwise such questions as may be lawfully put to him by the Master, he shall incur a penalty not exceeding $50, recoverable under *The Ontario Summary Convictions Act.*

(7) No person shall be required to attend in obedience to any summons, or to produce documents unless the fees and allowances for his attendance in accordance with the tariff of the Court are paid or tendered to him. R.S.O. 1897, c. 138, s. 142.

Certificates as to taxes. 4 Edw. VII., c. 23.

135. The treasurer of the proper municipality upon payment of the fee prescribed by section 130 of *The Assessment Act,* shall furnish to any person requiring the same in respect of land registered or with reference to which an application for registration is pending, a certificate of payment of taxes, charges, rates and assessments, in the prescribed

form, or as nearly corresponding thereto as the information given by his books of office will allow, and the certificate shall be binding upon the municipality. R.S.O. 1897, c. 138, s. 143.

Appointment of deputy of Master.

136.—(1) In case of the illness or absence of the Master of Titles or of a Local Master, or for any other cause, the Lieutenant-Governor in Council may appoint a person to act as the Deputy *pro tempore* of the Master or Local Master, and such Deputy, while so acting, shall have all the powers of the Master or Local Master for whom he is appointed Deputy.

(2) A person may be appointed under this section who shall have power to act from time to time. R.S.O. 1897, c. 138, s. 144. *Amended.*

(3) In case of the death of a Master the deputy may act until his authority is revoked or a Master is appointed and assumes the duties of his office. *New.*

Right to Inspect Registry.

Right to inspect documents. Imp. 38 & 39 V., c. 87, s. 104.

137. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any person registered as owner of any land or charge, and any person authorized by any such owner, or by an order of the Court, or by general rule, but no other person, may inspect and make copies of and extracts from any document in the custody of the proper Master of Titles relating to such land or charge. R.S.O. 1897, c. 138, s. 150.

Rules.

Power to make general rules. Rev. Stat. c. 51. Imp. 38 & 39 V., c. 87, s. 111.

138. The Lieutenant-Governor in Council, or the Judges of the Supreme Court, under the authority of sections 122 and 125 of *The Judicature Act,* which are to be read as applying to this Act, may make General Rules in respect of the following matters,

(*a*) The mode in which the register is to be made and kept;

(*b*) The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;

(*c*) The custody of any instruments coming into an office of land titles, with power to direct the destruction of any of them where they have become altogether superseded by entries on the register or have ceased to have any effect;

(*d*) The duties which are to be performed by the Master of Titles, the Local Masters and other officers employed; and what acts of the Master may be done by other officers;

(*e*) The costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, percentage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient;

(*f*) The taxation of such costs and the persons by whom such costs are to be paid;

(*g*) Any matter by this Act directed or authorized to be prescribed;

(*h*) Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be deemed expedient to make rules for the purpose of carrying this Act into execution. R.S.O. 1897, c. 138, s. 152.

Rules respecting fees. Imp. 38 & 39 V., c. 87, s. 112.

(2) Rules may be made in like manner with respect to the amount of fees payable under this Act, and regard may be had to the following matters: R.S.O. 1897, c. 138, s. 152.

(*a*) In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land, as determined by the amount of purchase money; or to the value of it, to be ascertained in such manner as may be prescribed;

(*b*) In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge. R.S.O. 1897, c. 138, s. 154.

Fees.

139.—(1) Subject to the rules, the fees payable in respect of such business as is analogous to the business under *The*

Registry Act, shall be the same as the fees payable to the Registrar under that Act; and all other fees and costs, whether in respect of business done by the Master of Titles, Local Master of Titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in like proceedings in the High Court. 10 Edw. VII., c. 60.

(2) The stamps for all fees payable on a certificate of ownership or a certificate of charge shall be affixed to the registered transfer or charge and not to the certificate, and all stamps payable in respect of registration shall be affixed to the instruments registered and not to the entry on the register. R.S.O. 1897, c. 138, s. 155. Stamps to be affixed to registered transfer or charge.

Appeals.

140. Except as provided by section 110, an appeal shall lie from any act, order, or decision of the Master of Titles or a Local Master of Titles under this Act to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 157. Appeals from Master.

141. Any person affected by an order made under this Act by the High Court may appeal therefrom to the Court of Appeal within the prescribed time, and subject to the rules in like manner as in the case of an appeal from a Divisional Court of the High Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 158. Appeal from High Court. Imp. 38 & 39 V., c. 87, s. 117.

Errors in Proceedings.

142. No application, order, affidavit, certificate, registration or other proceedings shall be invalid by reason of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 138, s. 159. Proceedings not void for want of form.

Oath of Office and Security by Officers.

143.—(1) The Master of Titles, before he enters upon the duties of his office, shall take and subscribe before a Judge of the Supreme Court the oath of office in the form following:— Oath of office.

I, *A.B.*, do solemnly swear that I will faithfully, and to the best of my ability, perform the duties of the office of Master of Titles.

R.S.O. 1897, c. 138, s. 145.

(2) Every Local Master of Titles and every Deputy of the Master of Titles or of a Local Master, before he enters

upon the duties of his office, shall take and subscribe an oath of office similar to that required to be taken by the Master of Titles. *New.*

(3) In the case of a Local Master or of a Deputy of a Local Master, the oath may be taken before a Judge of the County or District Court. *New.*

(4) The oaths of office shall be transmitted to the Provincial Secretary. *New.*

Bond of Master.

144. Before the Master of Titles or a Local Master of Titles enters upon the duties of his office, he shall furnish security in accordance with the provisions of *The Public Officers' Act.* R.S.O. 1897, c. 138, s. 146.

9 Edw. VII., c. 5.

Masters or Officers not to Act as Agents for Investors.

Master, etc., not to act as agent, etc., of investors.

145.—(1) No Master of Titles, officer or clerk appointed under this Act, shall, directly or indirectly, act as the agent of any corporation, society, company, or person investing money and taking securities on land, or advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer or carry on or transact within the office any business or occupation other than his duties as such Master, officer or clerk, or as holder of some other office under the Government of Ontario.

(2) This section shall apply to every Local Master, but as applied to him, and the officers and clerks in his office, the word "land" shall mean land within the county, city, town or district for which he is Local Master. R.S.O. 1897, c. 138, s. 149.

EXTENSION OF ACT TO OTHER LOCALITIES AND EXPENSES.

Adoption of Act by municipality.

146.—(1) The municipal council of a county, or of a city or town separated from the county for municipal purposes, may pass a by-law declaring it expedient that the provisions of this Act be extended to the county, city or town.

County of York, City of Toronto and other places where Act in force to supply accommodation, etc.

(2) The municipal corporations of the County of York and City of Toronto and of any county, city or town which has passed or shall pass a by-law under subsection 1, shall provide proper fire-proof and other accommodation for an office of Land Titles; and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salary of the Master of Titles of the locality, and all necessary and pro-

per books, stationery, furniture, and lighting, cleaning and heating of the office, and attendance, and other matters and things incident to the proper conduct of the business of the office.

(3) Where this Act is extended to a county which includes a city or town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act, in such proportions as may be determined by arbitration under *The Municipal Act,* in case the councils interested do not agree in respect thereto. R.S.O. 1897, c. 138, s. 160. 3 Edw. VII., c. 19.

(4) Where such a by-law has been passed, and proper accommodation has been provided either in connection with the registry office or at some other convenient place, to the satisfaction of the Inspector, and approved by the Lieutenant-Governor in Council, the Lieutenant-Governor may, by his proclamation, extend the operation of this Act to such county, city, or town, from a day to be named in the proclamation. Proclamation extending Act to municipality.

(5) The fact of the conditions precedent to the issue of such proclamation having been performed shall be conclusively established by the issue of the proclamation. R.S.O. 1897, c. 138, s. 161.

147.—(1) Where not less than twenty ratepayers of any county in which is situate a city or a town to which the provisions of this Act have been extended, who are owners of land situate in such county of the aggregate assessed value of $400,000, petition the Lieutenant-Governor in Council for the issue of a proclamation extending the provisions of this Act to the county, and the Lieutenant-Governor in Council declares that it is expedient that the same should be so extended, the provisions of section 146 shall apply to such county as fully as they would have been applicable had a by-law been passed by the council of the county. Extension of application of Act on petition of owners.

(2) In the cases provided for by subsection 1, the Local Master shall not be entitled to be paid a salary, unless the county council passes a resolution for the payment to him of a salary to be provided by the county, but such Local Master shall be entitled to retain for his own use the fees collected upon proceedings in his office.

(3) All costs and expenses incurred in introducing the Land Titles system into the county, or incurred during one year thereafter in connection therewith, shall be paid by the petitioners.

(4) The owners of land which is assessed as land of non-residents shall be deemed ratepayers within the meaning of this section. 7 Edw. VII. c. 30, s. 19.

Surplus fees under 10 Edw. VII., c. 60, to be applied in defraying expenses of Land Titles Office.

148.—Where this Act applies to a county, city or town entitled to receive money under sections 101 and 102 of *The Registry Act,* the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the Master and other expenses of the office, the money payable either directly or indirectly, to the county, city, or town under that Act, and the Treasurer shall pay the balance to the county, city or town; and if the amount so paid to the Treasurer is not sufficient, the residue, or if nothing is payable by the registrar, the whole of such salary and expenses shall be made good to the Province by the corporation of the county, city or town. R.S.O. 1897, c. 138, s. 162. *Amended.*

LOCAL MASTERS OF TITLES.

Local Masters of Titles *ex-officio.* 10 Edw. VII., c. 59.

149.—(1) Where at the time of the issue of a proclamation under section 146 there is a Referee of Titles under *The Quieting Titles' Act,* residing in the locality, such referee shall *ex-officio* be the first Local Master of Titles therefor, unless he practises as a barrister or solicitor, or is a Judge of the County Court, and he shall hold the office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1897, c. 138, s. 163.

Appointment of Local Masters.

(2) Subject to the provisions of subsection 1, the Lieutenant-Governor in Council may appoint a Master of Titles for any locality in which this Act is in force, to be styled "The Local Master of Titles" for the county, city, town or district, as the case may be, who shall hold office during pleasure.

Qualification.

(3) The person appointed may, in the discretion of the Lieutenant-Governor in Council, be a Judge of a County or District Court, a barrister or solicitor, whether practising or not, or a registrar. R.S.O. 1897, c. 138, s. 164 (1, 2).

Salary.

(4) The Local Master of Titles shall be paid by salary or fees for his services in that capacity, such salary to be fixed by the Lieutenant-Governor in Council from time to time, with reference to the amount or probable amount of the business, on the report of the Inspector.

Rev. Stat. c. 51.

(5) The Order in Council shall be laid before the Assembly, as provided in respect of Orders in Council under section 187 of *The Judicature Act.* R.S.O. 1897, c. 138, s. 164 (3); 2 Edw. VII. c. 19, s. 4.

(6) The Lieutenant-Governor in Council may commute the fees payable to a Registrar of Deeds or Local Master of Titles, in any county or district whether both offices are held by one officer or otherwise for a fixed sum each year, provided that such sum shall not exceed the income which such Registrar or Local Master would have derived from fees during such year, and the fees so commuted shall on or before the 15th day of January in each year be paid over to the Treasurer of the Province in the case of a district for the use of the Province, and in the case of a county or city shall be subject to such division between such county or city and the Province as the Lieutenant-Governor in Council may direct. Commutation of fees of Registrar or Local Master of Titles.

(7) Where such Registrar or Local Master holds office for part of a year, he or his executors or administrators shall be entitled to the just proportion of such commuted fixed sum. 10 Edw. VII. c. 26, s. 36.

DUTIES AND POWERS OF LOCAL MASTERS.

150. Except where otherwise provided by this Act, every Local Master of Titles, in respect to land situate within the territory for which he is appointed, shall have all the authority of and perform all the duties which, in the County of York, are performed by the Master of Titles, subject to appeal in the same manner. R.S.O. 1897, c. 138, s. 165. Master's authority and duties.

First Registration.

151. If, upon an application for first registration, the Local Master of Titles finds that the applicant, or his nominee, is entitled to be registered, he shall sign a memorandum to that effect at the foot of the application, and shall transmit the same to the Inspector, with the deeds, evidence, and other papers before him, and a draft of the entry of ownership proposed to be made. Local Master to transmit title deeds, etc., to Inspector.

(2) If the Inspector concurs in the opinion of the Local Master, he shall approve thereof and shall return the papers transmitted to him, and the Local Master may thereupon register the applicant, or his nominee, as owner. Proceedings where Inspector concurs in Master's finding.

(3) If the Inspector does not concur in the opinion of the Local Master, he shall communicate his opinion to the Local Master and shall cause such action to be taken as he deems expedient, and if his objections are not removed by Proceedings where Inspector does not concur.

explanations or additional evidence, the applicant or his nominee shall not be registered, unless the Court on appeal, or on a case stated for its opinion, otherwise directs.

Stay of proceedings in case appeal desired.

(4) If there is a contest upon the decision of the Inspector concurring in the Local Master's opinion, registration shall be delayed for ten days to enable anyone who so desires to appeal. R.S.O. 1897, c. 138, s. 166.

Applications for first registration in districts.

152.—(1) Until an Inspector is appointed, applications for first registration in the Provisional Judical Districts not coming within sections 159, 160 and 162 shall be made to the Master of Titles and not to the Local Master for the district, and upon the Master of Titles finding that an applicant is entitled to be registered he shall issue his certificate to that effect to the Local Master who shall thereupon register the land in accordance with the terms of such certificate. 3 Edw. VII. c. 12, s. 7; 7 Edw. VII. c. 30, s. 23. *Amended.*

153. Sections 151 and 152 shall not apply to applications coming within sections 159, 160 and 162, or to applications for a possessory title, or for the registration of leasehold land where the freehold or other estate out of which the lease is derived is registered land, or where a declaration of the title of the lessor to grant the lease is not required. 7 Edw. VII. c. 30, s. 23. *Amended.*

Duty of registrar of district when required to forward documents of title to Master.

154.—(1) Where an application is made under section 152 the Master of Titles may request the registrar of the registry division in which the land lies to transmit by registered post, or by express, any instrument appearing on the abstract, or required in connection with the application, which the Master desires to examine.

(2) The registrar shall comply with such request and shall, with such documents, send a list of all the documents transmitted and shall retain a copy of the list.

(3) The Master shall return the documents, as soon as practicable, by registered post or by express, sending therewith to the registrar a list of all the documents so returned and keeping a copy of the list.

(4) The registrar, in addition to his usual fees for the production of a document, shall be entitled to an additional fee of 10 cents for each document transmitted as compensation for his trouble in respect of such transmission, the preparation of the list and returning the documents to their proper files. 3 Edw. VII. c. 12, s. 8. *Amended.*

Subsequent Registration.

155. If on the application for the registration of an instrument after a first registration or for the registration of a transmission, the Local Master of Titles is unable to come to a clear conclusion as to the action which he should take, he shall delay making the required entry until he has stated the facts to the Inspector for his opinion and in submitting the case the Local Master shall state his own view and his reasons therefor. R.S.O. 1897, c. 138, s. 167. Submission of case to Inspector where Master in doubt.

INSPECTOR OF OFFICES OF LAND TITLES.

156.—(1) The Lieutenant-Governor in Council may appoint an officer, to be called "The Inspector of Land Titles' Offices." R.S.O. 1897, c. 138, s. 168 (1); 7 Edw. VII. c. 30, s. 20. Appointment of Inspector.

(2) The Inspector shall, subject to the rules, have the like powers and duties as an Inspector under *The Quieting Titles' Act*, and as an Inspector under *The Registry Act*, respectively, and such other duties as may be required of him by the rules, or as he may be required by the Lieutenant-Governor in Council to perform. Duties. 10 Edw. VII., cc. 59 and 60.

(3) The salary of the Inspector, his travelling expenses, and all expenses of and incidental to his office, shall be paid by the Province, and shall be repaid to the Treasurer of Ontario by the corporations of the localities in which this Act is from time to time in operation, in such proportions as after a report from the Inspector the Lieutenant-Governor in Council may determine. R.S.O. 1897, c. 138, s. 168. *Part.* Salary.

157. Until an Inspector is appointed, the duties of the Inspector shall be performed by the Master of Titles, or by some other person authorized by the Lieutenant-Governor in Council, and the expenses of and incidental thereto shall, in like manner as is hereinbefore provided be repaid to the Treasurer. R.S.O. 1897, c. 138, s. 168. *Part.* Performance of duties until Inspector appointed.

158. In all matters decided by the Inspector which are of like character as matters over which the Master of Titles has jurisdiction in the County of York, an appeal shall lie from any act, order or decision of the Inspector to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 168. *Part.* Appeal from Inspector.

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

Letters Patent or Order-in-Council granting lands in certain districts, registration of.

159.—(1) Where any land situate in a Provisional Judicial District is granted by letters patent or by order of the Lieutenant-Governor in Council, the letters patent or a certified copy of the Order in Council shall be forwarded to the Local Master of Titles of the District for the purpose of the grantee being entered as the first registered owner of the land, with any necessary qualifications.

(2) Subsection 1 shall not apply to land covered with the waters of Lake Huron adjacent to the Great Manitoulin Island, Cockburn Island or Fitzwilliam Island, in the District of Manitoulin, or adjacent to any island which, in whole or in part, lies between headland and headland around such three Islands. 6 Edw. VII. c. 19, s. 20.

(3) It shall not be necessary to issue a notice in respect of a caution or adverse claim which has been lodged, if by the certificate of the Minister or Deputy Minister of Lands, Forests and Mines it appears that the claim in respect of which such caution or adverse claim was lodged was considered by the Minister and disposed of before the issue of the patent; and if before the receipt of such a certificate any proceedings have been taken by a Local Master in respect of such caution or adverse claim, he shall thereupon discontinue the same, and disallow any objection or claim founded thereon, and make such order as to costs as he deems just.

(4) Where there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector before registering the patentee as owner, and shall otherwise proceed as provided in section 151.

(5) Where the cautioner consents to the registration of the patentee the Local Master need not issue any notice on account of such caution.

Patents demising lands for term of years declared within this section.

(6) Letters Patent from the Crown demising land, or mining rights for a term of years, or for any greater estate, granted on or after the 31st day of December, 1887, shall be deemed to have been and to be within the provisions of this section. R.S.O. 1897, c. 138, s. 169 (3-6). *Amended.*

Registration of Dominion patentees.

160. Where land situate in a Provisional Judicial District has been patented by the Government of Canada the Local Master of Titles shall have authority to register the patentee

as owner of such land and may do so without submitting his finding upon the application to the Inspector for his concurrence. 6 Edw. VII. c. 19, s. 20 (3).

Notice by Master to sheriff.

161.—(1) Upon an entry of ownership being made, the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the land lies of the entry of the patentee as owner.

(2) The notice shall be sent by registered post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution.

(3) The sheriff, upon receipt of the notice, shall forthwith transmit to the Local Master a copy of any execution in his hands affecting the land of the patentee, and if within the fourteen days no copy of an execution against the land of the patentee is received from the sheriff, the Local Master may assume that the land is not subject to any execution and may enter subsequent dealings with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee.

Entry where claim for taxes or copy of execution received.

(4) Where the Local Master receives from the sheriff a copy of an execution affecting the land, an entry thereof shall be made against the land and all dealings with it shall be subject to such execution. R.S.O. 1897, c. 138, s. 172 (1-4); 7 Edw. VII. c. 30, s. 22.

Registration of transferee of patentee.

162.—(1) Where a patent for land is forwarded to a Local Master of Titles under section 159, and it is made to appear to him that the patentee since the date of the patent has transferred the land to some other person, the transferee, or in case of a further transfer or transfers the ultimate tansferee of the land, shall be entered as the first registered owner, and shall be described as the transferee of the patentee or otherwise according to the fact. R.S.O. 1897, c. 138, s. 170.

(2) Before entering a transferee as first registered owner, the Local Master shall require evidence to be produced shewing that there is no execution affecting the land. *New.*

Fees payable to Local Master.

163. Where notices or other proceedings are necessary, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings, and where notices are

not necessary the Local Master shall be entitled to charge his actual disbursements. R.S.O. 1897, c. 138, s. 172 (5, 6). *Amended.*

Repeal.

164. The following Acts and parts of Acts are repealed: chapter 138 of Revised Statutes of Ontario, 1897, chapter 16 of the Acts passed in the 1st year, chapter 19 of the Acts passed in the 2nd year, chapter 12 of the Acts passed in the 3rd year, section 20 of chapter 19 of the Acts passed in the 6th year, chapter 30 of the Acts passed in the 7th year, chapter 38 of the Acts passed in the 8th year, section 15 of chapter 26 of the Acts passed in the 9th year, section 36 of chapter 26, and chapter 61 of the Acts passed in the 10th year of the reign of His late Majesty King Edward VII.

No. 96.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Simplify Titles and to Facilitate the Transfer of Land.

First Reading, 25th January, 1911.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 96. 1911.

BILL

An Act to simplify Titles and to facilitate the Transfer of Land.

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APPLICATION OF ACT, ETC., s. 2.
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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

Short title.

1. This Act may be cited as *The Land Titles Act*. R.S.O. 1897, s. 138, s. 1.

Application of Act.

2. This Act shall, subject to section 146, apply to the County of York, including the City of Toronto, the County of Elgin, including the City of St. Thomas, the County of Ontario, the City of Ottawa and the County of Carleton, and to Provisional Judicial Districts only, and the Land Registries heretofore established for the said counties and districts are hereby continued. R.S.O. 1897, c. 138, s. 2, and Orders in Council of 27th July, 1899, and 4th December, 1907.

Interpretation.

3. In this Act

Court.

(*a*) "Court" shall mean the High Court.

General Rules.

(*b*) "General Rules" or "Rules" shall mean the Rules made in pursuance of this Act or of any Act repealed by it.

Inspector.

(*c*) "Inspector" shall mean Inspector of Land Titles Offices, and shall include a person acting as Inspector of Land Titles Offices under the authority conferred by this Act.

Owner.

(*d*) "Owner" shall mean owner in fee simple;

Prescribed.

(*e*) "Prescribed" shall mean prescribed by this Act or by any general rules made in pursuance of this Act.

Proper Master of Titles.

(*f*) "Proper Master of Titles" shall mean the Master of Titles or Local Master in whose office the land affected or

intended to be affected by any proceeding, instrument or document is or may be registered

(*g*) "Registered" shall mean registered under this Act. Registered.

(*h*) "Sworn Valuator" shall mean a person appointed with the approval of the Lieutenant-Governor in Council, to value land under this Act. R.S.O. 1897, c. 138, s. 3. Sworn Valuator.

4 Any jurisdiction of the court under this Act may be exercised by a judge of the court whether sitting in court or in chambers. R.S.O. 1897, c. 138, s. 3, *part.* Judge may act in Court or Chambers.

PART I.

ENTRY OF LAND ON REGISTER OF TITLE.

5. The Land Registry for the County of York shall be conducted by an officer to be called the Master of Titles, who shall be a barrister of not less than ten years' standing at the Bar of Ontario, and shall be appointed by the Lieutenant-Governor in Council by commission under the Great Seal R.S.O. 1897, c. 138, s. 4. Land registry for County of York to be conducted by Master of Titles. Imp. 38 & 39 V., c. 87, ss. 5, 106.

6.—(1) Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether or not subject to incumbrances, or any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether or not subject to incumbrances, may apply to the proper Master of Titles to be registered under this Act, or to have registered in his stead any nominee as owner of such land, with an Absolute, Qualified or Possessory title, as the case may be. R.S.O. 1897, c. 138, s. 5. Application for registration with absolute or possessory title. Imp. 38 & 39 V., c. 87 s. 5.

(2) Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether or not subject to incumbrances, may also apply if the vendor consents to the application. R.S.O. 1897, c. 138, s. 6. Application by purchaser. Imp. 38 & 39 V. c. 87, s. 5.

(3) The Attorney-General for Canada, or the Attorney-General for Ontario, may apply in like manner in respect to the title of the Crown to any land; and the practice and procedure upon the application shall be the same as in ordinary cases. R.S.O. 1897, c. 138, s. 7. Application by Crown. Imp. 38 & 39 V. c. 87, s. 65.

Trustees and Mortgagees.

Trustees, etc., may sell by medium of registry, or may be themselves registered.

Imp. 38 & 39 V. c. 87, s. 68.

7.—(1) Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorize the purchaser to make an application to be registered as owner with any title with which an owner is authorized to be registered, and may consent to the performance of the contract being conditional on his being so registered; or any of such persons, except a mortgagee, may himself apply to be registered as such owner with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale.

(2) A mortgagee having a power of selling land, may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any such title.

(3) The amount of all costs, charges, and expenses properly incurred by such person, in or about the application, shall be ascertained and declared by the proper Master of Titles, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in respect thereof. R.S.O. 1897, c. 138, s. 8.

Part Owners.

Registration of part owners.

Imp. 38 & 39 V. c. 87, s. 69.

8.—(1) Any two or more persons entitled concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land, may, subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land, apply to the proper Master of Titles to be registered as joint owners, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that an individual owner may be registered. R.S.O. 1897, c. 138, s. 9.

Entry on registration of part owners.

(2) Where several persons are so registered as owners, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled, and such entry may be made either upon first registration or subse-

quently in case the estates, rights or interests so arise. R.S.O. 1897, c. 138, s. 10.

What certificate part owners may take out.

(3) Persons entitled to several estates, as mentioned in subsection 1, or owners who are tenants in common or joint tenants, shall be entitled to take out one certificate in respect of the whole estate, or each person may, when the extent of his interest is defined, take out a certificate in respect of his own estate; but when a certificate for the whole is outstanding no separate certificate shall be issued till the outstanding certificate is returned and cancelled. R.S.O. 1897, c. 138, s. 11.

Absolute Titles.

Evidence where absolute title required.

9. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple unless and until the title is approved by the proper Master of Titles. R.S.O. 1897, c. 138, s. 12.

Imp. 38 & 39 V. c. 87, s. 6.

Estate of first registered owner with absolute title.

10. The first registration of a person as owner of land, in this Act referred to as first registered owner, with an absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:

Imp. 38 & 39 V. c. 87, s. 7.

(*a*) To the incumbrances, if any, entered on the register;

(*b*) To such liabilities, rights and interests, if any, as are declared for the purposes of this Act not to be incumbrances, unless the contrary is expressed on the register;

(*c*) Where such first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, to any unregistered estates, rights, interests, or equities to which such persons may be entitled;

but free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 13.

Possessory Titles.

Evidence where possessory title required.

11. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple

Imp. 38 & 39 V. c. 87, s. 6.

on giving such evidence of title, and serving such notices, if any, as may be prescribed. R.S.O. 1897, c. 138, s. 14.

Estate of first registered owner with possessory title.

Imp. 38 & 39 V. c. 87, s. 8.

12. The registration of a person as first registered owner with a possessory title only, shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered owner, and subsisting or capable of arising at the time of registration of such owner, but shall otherwise have the same effect as registration of a person with an absolute title. R.S.O. 1897, c. 138, s. 15.

Qualified Titles.

A qualified title may be registered.

Imp. 38 & 39 V. c. 87, s. 9.

13.—(1) Where on the examination of the title it appears to the proper Master of Titles that it can be established only for a limited period, or subject to certain reservations, the Master, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

(2) A title registered subject to such excepted estate, right, or interest shall be called a qualified title.

Estate of owner registered with a qualified title.

(3) The registration of a person as first registered owner with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted.

Notice of easement. Imp. 38 & 39 V. c. 87, s. 18, sub-s. d.

(4) Where the existence of any easement is proved the Master may, if he thinks fit, enter notice thereof on the register.

Statement of appurtenant easement on certificate, etc.

(5) Where title is shewn to any easement appurtenant to the land being registered, the same may be stated in the entry and certificate of ownership. R.S.O. 1897, c. 138, s. 16.

Certificate of Ownership.

Certificate of ownership given on registration.

Imp. 38 & 39 V. c. 87, s. 10.

14. On the entry of the name of the first registered owner of freehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a Certificate, in the prescribed form, in this Act called a Certificate of Ownership, which shall state whether the title of the owner therein mentioned is absolute, qualified, or possessory. R.S.O. 1897, c. 138, s. 17.

15.—(1) A certificate by the proper Master of Titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situate; and thereafter *The Registry Act* shall cease to apply to such land. R.S.O. 1897, c. 138, s. 18.

Registry Act not to apply to land under this Act.

10 Edw. VII c. 60.

(2) The certificate, besides describing the land, shall state the date of the first registration, the number of the parcel and the register in which the land is registered: and the Registrar shall in his Abstract Index enter the number of the parcel and the register as given in the certificate. (*New.*)

Particulars to be stated in certificate for registry office.

PART II.

LEASEHOLD LAND.

16.—(1) A separate register of leasehold land shall be kept and any of the following persons:

Register of leasehold land.

(*a*) Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which at least 21 are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the portion unexpired of the current term to at least 21 years, or to a renewal for a life or lives, whether or not subject to incumbrances;

Application for registration with or without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87. s. 11.

(*b*) Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease whether or not subject to incumbrances; and

(*c*) Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease whether or not subject to incumbrances;

may apply to the proper Master of Titles to be registered, or to have registered in his stead any nominee as owner of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held;

Proviso.

Provided that, in the case of leasehold land contracted to be bought, the vendor consents to the application.

(2) Every applicant for registration of leasehold land shall deposit with the Master the lease in respect of which

the application is made, or if such lease is proved to the satisfaction of the Master to be lost, a copy of such lease or of a counterpart thereof, verified to the satisfaction of the Master; and such lease or verified copy is in this Act referred to as the registered lease.

(3) Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered.

(4) Leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered unless and until provision is made in the prescribed manner for preventing alienation without such license, by entry in the register of a restriction to that effect, or otherwise. R.S.O. 1897, c. 138, s. 19.

(5) Section 7 shall apply to leasehold as well as to freehold land. 7 Edw. VII. c. 30, s. 2.

Evidence of title required on application.

Imp. 38 & 39 V. c. 87, s. 12.

17. An applicant or his nominee shall not be registered as owner of leasehold land unless and until the title to such land is approved by the proper Master of Titles; and if he applies to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, shall not be registered with such declaration unless and until the lessor, after an examination of his title by the Master, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 20.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 13.

18. The registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held, shall vest in such person the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges and appurtenances attached to such estate, but subject

(*a*) To all implied and express covenants, obligations and liabilities incident to such leasehold estate;

(*b*) To the incumbrances, if any, entered on the register;

(*c*) Unless the contrary is expressed on the register, to such liabilities, rights and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land; and

(*d*) Where such first registered owner is not entitled for his own benefit to the land registered, then, as between himself and any person for whom he holds or claiming under him, to any unregistered estates, rights, interests or equities to which such person may be entitled;

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 21; 7 Edw. VII. c. 30, s. 3.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 14.

19. The registration of a person as first registered owner of leasehold land without a declaration of the title of the lessor, shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall have the same effect as the registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 22.

Lessor may be declared to have a qualified title to grant lease.

Imp. 38 & 39 V. c. 87, s. 15.

20.—(1) Where on the examination of the title of a lessor by the proper Master of Titles, it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period, or subject to certain reservations, the Master may, by an entry made in the register, except from the effect of registration, any estate, right or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register; and a title of a lessor subject to such excepted estate, right, or interest shall be deemed a qualified title.

(2) The registration of a person as first registered owner of leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held, shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 23.

Office copy of lease given on registration.

Imp. 38 & 39 V. c. 87, s. 17.

21. On the entry of the name of the first registered owner of leasehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated

in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register. R.S.O. 1897, c. 138, s. 24.

PART III.

REGISTRATION, HOW EFFECTED.

Regulations as to examination of title by Master.

Imp. 38 & 39 V. c. 87, s. 17.

22. The examination of a title shall be conducted in the prescribed manner, subject to the following provisions:

(*a*) Due notice shall be given where the giving of such notice is prescribed; and sufficient opportunity shall be afforded to any person desirous of objecting to come in and state his objections to the proper Master of Titles;

(*b*) The Master shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions;

(*c*) If the Master, upon the examination of any title, is of opinion that it is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of it or may require the applicant to apply to the Court, upon a statement signed by the Master, for its sanction to the registration;

10 Edw. VII. c. 58, s. 8.

(*d*) It shall not be necessary to produce any evidence which, by *The Vendors and Purchaser's Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents, or instruments, unless the Master otherwise directs;

(*e*) The Master may receive and act upon any evidence which is received in court on a question of title, or any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of conveyancers, if the same satisfies him of the truth of the facts intended to be made out thereby;

(*f*) The Master may refer to and act upon not only the evidence adduced before him in the proceeding in which such evidence is adduced, but also any evidence adduced before him in any other proceeding wherein the facts to which such evidence relates were or are in question. R.S.O. 1897, c. 138, s. 25. *Amended.*

Employment of Counsel for examinations of titles.

23. The Lieutenant-Governor in Council may name one or more barristers to whom the Master of Titles may refer the examination of the title, in whole or in part, of any land in respect of which an application is made, and the Master may act upon the opinion of such referee. 7 Edw. VII. c. 30, s. 1.

Imperial Land Transfer Rules of 1903, Nos. 36 and 313.

Liability of registered land to easements and certain other rights.

24.—(1) All registered land, unless the contrary is expressed on the register, shall be subject to such of the following liabilities, rights, and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed incumbrances within the meaning of this Act;

Imp. 38 & 39 V. c. 87, s. 18.

Land to be registered subject to taxes.

(*a*) ☞Provincial taxes and succession duty and☜ municipal taxes, charges, rates or assessments, and school or water rates;

(*b*) Any right of way, water-course, and right of water, and other easements;

(*c*) Any title or lien which, by possession or improvements the owner or person interested in any adjoining land has acquired to or in respect of the registered land;

(*d*) Any lease or agreement for a lease, for a period yet to run which does not exceed three years, where there is actual occupation under it;

(*e*) Any right of the wife or husband of the person registered as owner to dower or curtesy, as the case may be, in case of surviving such owner;

(*f*) Any right of expropriation, access or user conferred by Statute; R.S.O. 1897, c. 138, s. 26 (1); 3 Edw. VII. c. 12, s. 2; 7 Edw. VII. c. 30, s. 4. *Amended.*

(*g*) Any public highway.

(2) If the applicant desires the certificate to declare the title to be free from the first five of such particulars, or any

of them, his application shall so state, and the investigation shall proceed accordingly. R.S.O. 1897, c. 138, s. 26 (2).

(3) The description of the land in the certificate of ownership shall not, as against adjoining owners, be conclusive as to the boundaries or extent thereof. R.S.O. 1897, c. 138, s. 26 (1). *Part, amended.*

Effect of registration of land upon timber licenses.

Rev. Stat. c. 32.

Rev. Stat. c. 29.

25. Where a license under *The Crown Timber Act,* or any Statute for which that Act is substituted, has been or shall be granted, and the land is registered under this Act the same shall be deemed to have been, and to be subject to the rights of the licensee or his assigns for the current license year under the license, and to the rights of His Majesty in the pine trees under *The Free Grants and Homesteads Act,* or any Statute for which that Act is substituted, without the fact of such land being so subject being expressed in the entry in the register, or in the certificate of ownership. R.S.O. 1897, c. 138, s. 27.

Mortgages existing at First Registration.

Lands subject to mortgage at time of registration.

26.—(1) Where land is registered subject to mortgages existing thereon at the time of the first registration the mortgages shall be noted in the register in the same order as they are registered in the registry office if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are noted.

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall, subject to sections 10 to 13 and 42 to 45, be decided under the registry law, as if the registrations in the Office of Land Titles had been made under *The Registry Act.* R.S.O. 1897, c. 138, s. 29.

10 Edw. VII., c. 60.

Determination of Incumbrances or Leases existing at First Registration.

Complete or partial discharge of incumbrance,

Imp. 38 & 39 V., c. 87, s. 19.

27.—(1) Where upon the first registration of land, notice of any incumbrance affecting such land has been entered on the register, the proper Master of Titles, on proof to his satisfaction of the discharge of such incumbrance shall

note in the prescribed manner on the register, by cancelling the original entry or otherwise, the cessation of such incumbrance and thereupon the incumbrance shall cease.

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land or the registered assignee thereof or of the personal representative of such mortgagee or assignee authorizing or certifying the discharge of the whole or any part of the land therefrom or the discharge of the whole or any part of the money thereby secured, the Master may note on the register the discharge of such land from the mortgage or the discharge of such part of the money, and thereupon as to the land or money discharged, the incumbrance shall cease.

(3) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. R.S.O. 1897, c. 138, s. 30; 7 Edw. VII., c. 30, s. 5.

Determination of lease.

28. The proper Master of Titles, on proof to his satisfaction of the determination of any lease of registered land existing at the first registration, shall note in the prescribed manner on the register, the determination of such lease. R.S.O. 1897, c. 138, s. 31.

Imp. 38 & 39 V., c. 87, s. 20.

Adverse Possession as against Registered Owner.

No acquisition of title by adverse possession.

29.—(1) Where a title to registered land is claimed under *The Limitations Act,* no time prior to the registration of a registered owner of such land, shall be computed in the period of possession required to confer a title under the Act, as against such owner or any one claiming under him, but save as in this section provided the Act shall apply to registered land.

Imp. 38 & 39 V., c. 87, s. 21. 10 Edw. VII., c. 34.

(2) The registration of a transfer, charge or transfer of a charge shall have the same effect for the purpose of stopping the running of the Statute as an entry on the land.

(3) Where a person claims to have obtained a title by possession to registered land he may lodge a caution under section 72, and apply to the proper Master of Titles for an order for the rectification of the register, and on such application if it is made to appear that the applicant had at the time he lodged the caution acquired such title the Master may declare the applicant entitled to the land or any part thereof and shall rectify the register accordingly.

(4) No person shall be deemed to have acquired a title by possession unless he has taken the proceedings provided for by subsection 3.

(5) This section shall not affect the provisions of paragraph "*c*" of subsection 1 of section 24. *New.*

PART IV.

TRANSFER AND CHARGE OF REGISTERED LAND.

Charge of Registered Land.

Creation of charges, and delivery of certificate of charge.

Imp. 38 & 39 V., c. 87, s. 22.

30.—(1) Every registered owner, may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest, or as security for any other purpose, and with or without a power of sale. R.S.O. 1897, c. 138, s. 33 (1).

Charge how completed.

(2) The charge shall be completed by the proper Master of Titles entering on the register the person in whose favour the charge is made as the owner of the charge, stating the amount of the principal sum which the charge secures, with the rate of interest and the periods of payment, or the other purpose for which the charge is given.

(3) Where the charge contains a power of sale, that fact shall be stated, but the particulars need not be set out in the register, nor shall it be necessary to set forth incidental matters which may be expressly charged, such as costs of inspection, or of abortive attempts to sell and the like. 3 Edw. VII., c. 12, s. 3.

(4) The charge, when registered, shall confer upon the chargee a charge upon the interest of the chargor as appearing in the register subject to the incumbrances and qualifications to which such interest is subject, but free from any unregistered interests in the land. *New.*

(5) The Master shall also, if required, deliver to the owner of the charge, a certificate of charge in the prescribed form. R.S.O. 1897, c. 138, s. 33 (3).

10 Edw. VII. c. 60.

(6) The provisions of section 73 of *The Registry Act* shall apply to the charge as if it was a registered mortgage. *New.*

31.—(1) Where a registered charge is created, there shall be implied on the part of the registered owner at the time of the creation of the charge, his heirs, executors and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge: Implied covenant to pay charges. Imp. 38 & 39 V., c. 87, s. 23.

(*a*) To pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land and that in case of default all payments made by the owner of the charge may be added to the principal sum and bear interest;

(*b*) If the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.

(2) Where a charge, whether or not under seal, is expressed to be made in pursuance of *The Short Forms of Mortgages Act,* or refers thereto, and contains any form of words contained in clauses numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16, of Column One, of Schedule B to that Act, whether expressed in the first or third person, such words shall have the same meaning and effect as the words under the corresponding number in Column Two in that schedule: and the provisions of that Act shall apply to the charge. R.S.O. 1897, c. 138, s. 34. Provision where charge expressed to be made under 10 Edw. VII. c. 55.

32. Where a registered charge is created on any leasehold land, there shall be implied on the part of the registered owner of such leasehold land at the time of the creation of the charge, his heirs, executors, and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge: Implied covenant in case of leaseholds to pay rent, etc., and indemnify owner of charge. Imp. 38 & 39 V., c. 87, s. 24.

(*a*) That the registered owner of such leasehold land at the time of the creation of the charge, his executors, administrators or assigns, will pay, perform and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed; and

(*b*) Will keep the owner of the charge, his executors, administrators and assigns, indemnified against

all actions, suits, expenses, and claims, on account of the non-payment of such rent, or any part thereof, or the breach of such covenants or conditions, or any of them. R.S.O. 1897, c. 138, s. 35.

Entry by owner of charge.

Imp. 38 & 39 V., c. 87, s. 25.

33. Subject to any entry to the contrary on the register, the registered owner of a registered charge, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge, may enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. R.S.O. 1897, c. 138, s. 36.

Foreclosure by owner of charge.

Imp. 38 & 39 V., c. 87, s. 26.

34. Subject to any entry to the contrary on the register the registered owner of a registered charge may enforce it by foreclosure or sale, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption. R.S.O. 1897, c. 138, s. 37.

Remedy of owner of charge with a power of sale.

Imp. 38 & 39 V., c. 87, s. 27.

35. Subject to any entry to the contrary on the register, the registered owner of a registered charge with a power of sale, in accordance with the terms of the power, may sell and transfer the interest in the land, which is the subject of the charge, or any part thereof, in the same manner as if he were the registered owner of the land to the extent of such interest therein. R.S.O. 1897, c. 138, s. 38.

Priority of registered charges.

Imp. 38 & 39 V., c. 87, s. 28.

36. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created. R.S.O. 1897, c. 138, s. 39.

Discharge of incumbrance.

Imp. 38 & 39 V., c. 87, s. 28.

37.—(1) The proper Master of Titles shall, on the requisition of the registered owner of any land and on due proof of the satisfaction of a charge thereon, or may on the requisition of the registered owner of a charge or of his personal representative or on his certificate of the satisfaction thereof, note on the register in the prescribed manner, by cancelling the original entry or otherwise, the cessation of the charge; and thereupon the charge shall cease.

(2) The Master may in like manner and with the like effect note the cessation of any other incumbrance.

(3) On the requisition or certificate of the registered owner of a charge, or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the Master may note on the register the discharge of such land from the charge or the discharge of such part of the money and thereupon as to the land or money discharged the charge shall cease. R.S.O. 1897, c. 138, s. 40. Partial cessation of charge.

(4) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. 7 Edw. VII., c. 30, s. 6. Death of person certifying to cessation of charge.

Transfers after Land is Brought Under this Act.

38.—(1) Every registered owner may, in the prescribed manner, transfer the land or any part thereof. Transfer of land, and delivery of land certificate.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the land transferred; and until such entry is made the transferor shall be deemed to remain owner of the land. Imp. 38 & 39 V., c. 87, s. 29.

(3) Upon completion of the registration of the transferee. the Master shall, if required, deliver to him a certificate of ownership in the prescribed form.

(4) Where part only of the land is transferred, the Master shall also, if required, deliver to the transferor a certificate of ownership containing a description of the land retained by him. R.S.O. 1897, c. 138, s. 41.

39.—(1) Any person who is entitled to have a transfer or charge entered on the register, shall have the right to require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the proper Master of Titles, or to deliver it to such person for production for the purpose of having all proper entries or alterations made thereon by the Master, or for cancellation when the certificate has become effete. Right to compel production of certificate of ownership.

(2) A person entitled to have a cessation of a charge entered shall have the right to have an outstanding certificate of ownership of the charge produced in like manner in order that it may be cancelled. R.S.O. 1897, c. 138, s. 42.

40. Where upon an application for the registration of a charge or of a transfer of any land or charge, the proper Master of Titles considers it expedient to require the pro- Master may require production of certificate of ownership.

duction of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation when the same ought to be cancelled or for any other purpose, he may do so, and may decline to enter the charge or transfer on the register until the certificate has been produced, and if the certificate is not produced within such time as the Master limits, he may return the transfer or charge. R.S.O. 1897, c. 138, s. 43.

Transfers to trustees under Rev. Stat. c. 307.

41. Where registered land is transferred to trustees under *The Act respecting the property of Religious Institutions,* the trustees shall be registered as owners in the usual manner and by their corporate name without setting out the purposes or trusts on which the land is held, but, a note shall be made by the proper Master of Titles that the land is only to be transferred or charged in accordance with the provisions of that Act. R.S.O. 1897, c. 138, s. 44.

Estate of transferee for valuable consideration of land with absolute title.

Imp. 38 & 39 V., c. 87, s. 30.

42. A transfer for valuable consideration of land registered with an absolute title, when registered, shall confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges and appurtenances belonging or appurtenant thereto, subject to:

(*a*) The incumbrances, if any, entered or noted on the register; and

(*b*) Such liabilities, rights, and interests, if any, as are declared for the purposes of the Act not to be incumbrances, unless the contrary is expressed on the register, and

As to such rights, privileges and appurtenances, subject also to any qualification, limitation or incumbrance to which the same are expressed to be subject in the register, or where such rights, privileges and appurtenances are not registered, then subject to any qualification, limitation or incumbrance to which the same are subject at the time of the transfer. *New.*

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 45. *Amended.*

Estate of transferee for valuable consideration of land with qualified title.

43. A transfer for valuable consideration of land registered with a qualified title, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any

right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 46. Imp. 38 & 39 V., c. 87, s. 31.

44. A transfer for valuable consideration of land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the registration of such owner; but, otherwise, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R.S.O. 1897, c. 138, s. 47. Estate of transferee for valuable consideration of land with possessory title. Imp. 38 & 39 V., c. 87, s. 32.

45. A transfer of registered land, made without valuable consideration, shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, otherwise, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 48. Estate of voluntary transferee of land. Imp. 38 & 39 V., c. 87, s. 33.

Claims for Dower.

46.—(1) Where it is claimed that registered land is free from dower on account of the land being held in trust, or for some reason other than the wife's release of her dower by an instrument which can be produced and registered, and evidence to that effect which appears satisfactory is produced before the proper Master of Titles, he may issue a notice requiring the wife to support her right if she claims to be entitled to dower in the land; and if she fails to do so the Master may enter on the register a memorandum that the land is free from dower, and such entry shall, unless reversed on appeal, be a bar to any claim by such wife; and no appeal shall lie, unless the wife claims her right of dower before the Master. Claim that land is free from dower.

(2) This section shall also apply to the widow of a former owner. R.S.O. 1897, c. 138, s. 49.

47. Where registered land is transferred subject to a charge, or where the registered owner of land which is subject to a charge subsequently marries, the wife of the transferee or owner shall have the same rights in respect of dower as she would have had if the legal estate had been transferred by an ordinary mortgage and no others. R.S.O. 1897, c. 138, s. 50. Dower of wife transferee of incumbered land.

Transfers of Leaseholds.

Transfer of leasehold land and delivery of office copy of lease.

48.—(1) Every registered owner of leasehold land may in the prescribed manner, transfer the whole of his estate in such land or in any part thereof.

Imp. 38 & 39 V., c. 87, s. 34.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the leasehold land transferred, but until such entry is made the transferor shall be deemed to remain owner.

(3) Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease.

(4) If a part only is transferred, the Master, if required according to any agreement that has been entered into between the transferor and transferee, shall deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies shewing, by endorsement or otherwise, the parcels of which the person to whom such copy is delivered is the registered owner. R.S.O. 1897, c. 138, s. 51.

Estate of transferee for valuable consideration of leasehold land with a declaration of absolute title of lessor.

Imp. 33 & 39 V., c. 87, s. 35.

49. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, when registered, shall vest in the transferee the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject to

(*a*) All implied and express covenants, obligations, and liabilities incident to such estate;

(*b*) The incumbrances, if any, entered or noted on the register; and

(*c*) Such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be incumbrances in the case of registered freehold land, unless the contrary is expressed on the register;

But free from all other estates and interests whatsoever including any estates and interests of His Majesty, which are within the legislative authority of Ontario. R.S.O. 1897, c. 138, s. 52.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor.

50. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor, shall not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but otherwise when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 53.

Imp. 38 & 39 V., c. 87, s. 37.

Estate of transferee valuable consideration of leasehold land with a declaration of qualified title of lessor.

51. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R.S.O. 1897, c. 138, s. 54.

Imp. 38 & 39 V., c. 87, s. 36.

Estate of voluntary transferee of leasehold land.

52. A transfer of registered leasehold land made without valuable consideration shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but otherwise when registered in all respects and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 55.

Imp. 38 & 39 V., c. 87, s. 38.

Implied covenants on transfer of leasehold estates.

53. On the transfer of any registered leasehold land, unless there is an entry on the register negativing such implication, there shall be implied

Imp. 38 & 39 V., c. 87, s. 39.

(*a*) On the part of the transferor, a covenant with the transferee that, notwithstanding anything by such transferor done, omitted, or knowingly suffered, the rents, covenants and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

(*b*) On the part of the transferee, a covenant with the transferor, that the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rents, covenants, and conditions by and in the registered lease reserved and con-

tained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his executors, administrators and assigns, indemnified against all actions, suits, expenses, and claims on account of the non-payment of the rent or any part thereof, or the breach of the convenants or conditions, or any of them. R.S.O. 1897, c. 138, s. 56.

Transfer of Charges.

Transfer of charges on register,

Imp. 38 & 39 V., c. 87, s. 40.

54.—(1) The registered owner of a charge may, in the prescribed manner, transfer such charge to another person as owner.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the charge transferred.

(3) The transfer, when registered, shall confer upon the transferee the ownership of the charge free from any unregistered interests therein, and the transfer of part of the sum secured by a charge shall confer upon the transferee the ownership of such part free from any unregistered interests therein.

(4) Every transfer of a charge shall be subject to the state of account upon the charge between the chargor and the chargee.

(5) The Master shall also, if required, deliver to the transferee a fresh certificate of charge.

(6) The transferor shall be deemed to remain owner of such charge until the name of the transferee is entered on the register in respect thereof.

Transfer of part of a charge.

(7) The registered owner of a charge may transfer a part of the sum secured by the charge, and the part so transferred may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it, as may be stated in the transfer. R.S.O 1897, c. 138, s. 57. *Amended.*

Time of Registration.

Priority.

55. The day, hour and minute of the receipt of each instrument and copy of writ shall be noted thereon, and for the purpose of priority between chargees, transferees and others, the time of the receipt shall be deemed the time of registration. R.S.O. 1897, c. 138, s. 58.

Transmission of Land and Charges on Owner's Death.

Transmission on death of owner of freehold land.

Imp. 38 & 39 V., c. 87, s. 41.

56. On the death of the sole registered owner, or of the survivor of several joint registered owners, of any freehold land, such person shall be registered as owner, in the place of the deceased owner or owners, as may, on the application of any person interested in such land, be appointed by the proper Master of Titles, regard being had to the rights of the several persons interested in the land, and in particular to the selection of any such persons as may for the time being appear to the Master to be entitled, according to law, to be so appointed: subject to an appeal to the Court in the prescribed manner by any person aggrieved by any order of the Master under this section. R.S.O. 1897, c. 138, s. 59.

Transmission on death of owner of leasehold land or of charge.

Imp. 38 & 39 V., c. 87, s. 42.

57. On the death of the sole registered owner, or of the survivor of several joint registered owners of any leasehold land or of any charge, the executor or administrator of such sole deceased owner, or of the survivor of such joint owners, shall be entitled to be registered as owner in his place. R.S.O. 1897, c. 138, s. 60.

Transmission on death of one of several owners.

58. Where two or more persons have been entered as owners of any land or charge, and one of them dies, his personal representative may apply to be entered as owner jointly with the survivor or survivors. R.S.O. 1897, c. 138, s. 61.

Nature of title of registered fiduciary owners.

Imp. 38 & 39 V., c. 87, s. 46.

59. Any person registered in the place of a deceased owner shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates, rights, interests, or equities subject to which the deceased owner held the same; but otherwise in all respects, and in particular as respects any registered dealings with such land or charge, he shall be in the same position as if he had taken such land or charge under a transfer for a valuable consideration. R.S.O. 1897, c. 138, s. 62.

Evidence of transmission of registered ownership.

Imp. 38 & 39 V., c. 87, s. 47.

60. The fact of any person having become entitled to any land or charge in consequence of the death of any registered owner, shall be proved in the prescribed manner. R.S.O. 1897, c. 138, s. 63.

Entry of heir or devisee without reference to debts of estate.

10 Edw. VII., c. 56.

61. Where an heir or devisee applies to be entered as owner of any registered land, which has vested in him under *The Devolution of Estates Act*, the proper Master of Titles shall make such entry without reference to the liability of the land for debts, except under executions, copies of which have been duly lodged; and the liability under that Act of

such land or any transferor thereof shall be determined as if such land had not been registered under this Act. 3 Edw. VII. c. 12, s. 9. *Amended.*

Executions and Sale Thereunder.

Notice of executions.

62.—(1) The sheriff, or other officer to whom the same is directed forthwith after the delivery to him of any execution or other writ, or renewal thereof, affecting registered land, upon written request of the party by whom such execution or other writ was sued out or renewed, or of his solicitor, but not otherwise, shall deliver or transmit by registered post to the proper Master of Titles a copy of the writ certified under his hand; and no registered land shall be bound by any such writ until such copy has been received by the Master; and after the receipt by him of the copy, no transfer by the execution debtor shall be effectual, except subject to the rights of the execution creditor under the writ.

Books to be kept.

(2) The Master shall keep a book in the prescribed form, in which shall be entered a record of all writs, copies of which are received by him from the sheriff or other officer.

(3) No sale or transfer under any such writ shall be valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding that the purchaser may have had notice of the writ.

(4) Upon production to the Master of sufficient evidence of the satisfaction of any such writ, he shall cause an entry to be made in the book to that effect, and on such entry the writ shall be deemed to be satisfied.

(5) Every writ and renewal of a writ shall be presumed to have been spent, and the delivery or transmission of a copy thereof shall cease to have effect at the expiration of the writ or renewal as appearing on the copy transmitted; but if there has been a sufficient commencement of the execution to enable it to be completed by the sale and conveyance of the land under the writ, and the same has not been completely executed the sheriff or officer shall, or the execution creditor may, at any time within one month before the expiration of the writ or renewal as so appearing, file with the Master a certificate of the sheriff or officer stating that fact, and such certificate shall be noted at the entry of the writ in the book, and the writ shall continue in force for a further period of one year from the filing of the certificate when it shall cease to have effect unless another similar certificate is filed, which shall operate in like manner.

(6) Where an execution or other writ is issued against the registered owner under a different name from that under which he is registered, the writ shall have no effect under this Act, unless the person who sues out the writ, or his solicitor, gives a notice to the Master, stating the name under which the execution debtor is registered, and otherwise in the form or to the effect prescribed, or unless a like notice is written upon the copy of the writ.

Notice to Master where writ issues against owner under a different name from that on the register.

(7) The sheriff or other officer shall be entitled to a fee of fifty cents for each copy of writ or certificate transmitted by him. R.S.O. 1897, c. 138, s. 64. *Amended.*

63. Where a transferor or transferee of land, or maker or owner of a charge, claims that a writ apparently affecting land does not affect the land or charge, he shall produce such evidence thereof as the proper Master of Titles may consider necessary, and the Master may require all parties interested to be notified of the application to register freed from the writ, and may himself decide the question or may direct an issue to be tried or a case to be stated and may make such order as to costs as he deems just. R.S.O. 1897, c. 138, s. 65.

Provision in case it is claimed that land is not affected by a writ apparently affecting same.

64.—(1) The seizure under execution or other process of a mortgage or charge or of leasehold land registered under this Act, shall not take effect until a certificate of the sheriff or other officer that he has taken such mortgage, charge or leasehold land under such process against the registered owner thereof is lodged with the proper Master of Titles.

Seizure of mortgage, charge, or leasehold.

(2) The certificate shall state the number of the parcel under which the land affected is registered, and the name of the owner, and shall be noted by the Master in the register.

(3) This section shall not apply where the proceedings prescribed by section 23 of *The Execution Act* have been taken with respect to a mortgage or charge. R.S.O. 1897, c. 138, s. 66. *Amended.*

9 Edw. VII., c. 47.

65. Where any registered freehold or leasehold land is sold under execution or other process, the proper Master of Titles, upon the production to him of the transfer of the same by the sheriff or other officer in the prescribed form, with proof of the due execution thereof, shall cause a notice to be mailed to the proper post-office address of the person whose interest has been sold; and after the expiration of two weeks from the mailing of the notice, and if no other person has become entitled meanwhile for want of entry of the writ or otherwise, the Master shall register the purchaser as owner,

Sale under execution of registered land.

and shall, if required, issue to him a certificate of ownership in the prescribed form. R.S.O. 1897, c. 138, s. 67; 7 Edw. VII. c. 30, s. 7.

Sale for Taxes.

Sales for taxes.

66. Where land is sold for taxes, the purchaser may at any time after the sale lodge a caution against the transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form, with proof of the due execution thereof by the proper officer, the proper Master of Titles shall cause a notice to be mailed to the proper post-office address of the persons who appear upon the register to be interested in the land; and after the expiration of three months from the mailing of the notice, shall register the purchaser at the sale as owner of the land, with an absolute title; and shall, if required, issue to him a certificate of ownership in the prescribed form, unless the registration is in the meantime stayed by order of the Court, and in that case the registration shall not be made, nor shall the certificate be issued, except in accordance with the order and direction of the Court. R.S.O. 1897, c. 138, s. 68.

Cessation of Mechanics' Liens.

Cancellation of liens registered under 10 Edw. VII., 69.

67. On its appearing to the satisfaction of the proper Master of Titles that a registered claim for lien under *The Mechanics' and Wage Earners' Lien Act* has ceased to exist by reason of proceedings not having been taken within the time limited in that behalf, the Master may make an entry accordingly, or an entry cancelling the registered claim; and the land affected shall thereby be released from the claim. R.S.O. 1897, c. 138, s. 69.

[*As to registration of Mechanics' Liens, see The Mechanics' and Wage Earners' Lien Act, 10 Edw. VII. c. 69, s. 17.*]

PART V.

OTHER DEALINGS WITH REGISTERED LAND.

Registered owner only may make registered disposition.

Effect of unregistered dispositions.

Imp. 38 & 39 V., c. 87, s. 49.

68.—(1) No person other than the registered owner shall be entitled to transfer or charge registered freehold or leasehold land by a registered disposition.

(2) Subject to the maintenance of the estate and right of such owner, any person, having a sufficient estate or interest in the land, may create estates, rights, interests and equities in the same manner as he might do if the land were not registered.

(3) Any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered owner, by entering on the register such notices, cautions, inhibitions, or other restrictions as are authorized by this Act.

(4) No person other than the registered owner thereof shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject matter admits, in and with which unregistered estates and interests may be created in registered land. R.S.O. 1897, c. 138, s. 70. *Amended.*

Right to Registration.

Right of transferees, chargees, devisees, etc., to registration.

69.—(1) Every trnsfer or charge signed by a registered owner or others claiming by transfer through, or under him, purporting to transfer or charge freehold or leasehold land, or an interest therein, capable of being registered, or purporting to transfer a charge, shall, until cut out by a conflicting registration, confer upon the person intended to take under such transfer or charge, a right to be registered as the owner of such land or charge, and where a person applies to be registered under this section, the proper Master of Titles may either forthwith, or after requiring such notices to be given as he deems expedient, register such applicant as owner, subject to such incumbrances, if any, as the condition of the title requires, notwithstanding that the transfer or charge has been executed or bears date prior to the entry of such transferor or chargor as the owner of the land or charge.

Application of devisees, etc., for registration.

(2) Any person claiming to be entitled to freehold or leasehold land, or to an interest therein, capable of being registered, or to a charge, as devisee, heir, executor or administrator of a person who might have been registered under subsection 1, or any person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land, interest or charge, and if no conflicting registration has been made, may be so registered subject to the provisions of this section.

Mode of entry.

(3) On registering the applicant, the Master shall, so far as practicable, enter on the register short particulars of every instrument or other title under which the right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and as a preliminary step to the registration of the applicant, may enter any intermediate transferee, heir, executor or administrator, as registered owner, where that method is more convenient.

All persons entitled must apply.

(4) No application by a person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are to be entered as owners. R.S.O. 1897, c. 138, s. 71.

Entry of persons taking by transmission from unregistered owner.

(5) The Master may in like manner enter as owner of freehold or leasehold land or of a charge any person who is entitled to such land or charge through the death of the owner, although the deceased had not been registered as owner, or any person who is entitled by virtue of the exercise of any power conferred by a statute, will, deed, or other instrument, whether the person so entitled claims directly from the deceased or directly under the power, or through any other person entitled by virtue of the death or power or through a succession of transfers or transmissions. 1 Edw. VII. c. 16, s. 2.

Notice of Lease.

Lessee may apply for registration of notice of lease.

Imp. 38 & 39 V., c. 87, s. 50.

70.—(1) Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land where the term is for a life or lives, or is determinable on a life or lives, or where the period of the lease or agreement yet to run is three years or upwards, or where the occupation is not in accordance with such lease or agreement may apply to the proper Master of Titles to register notice of such lease or agreement in the prescribed manner. R.S.O. 1897, c. 138, s. 72 (1); 7 Edw. VII. c. 30, s. 8.

Manner of registering notices of leases.

Imp. 38 & 39 V., c. 87, s. 51.

(2) Where the lease is by the registered owner of the land, the Master may without notice to him enter on the register such notice thereof as he deems necessary.

(3) Where the lease is not by the registered owner but his title appears to be subject thereto, or in the case of an agreement for a lease, the Master upon notice to such owner may enter notice of the lease or agreement on the register.

(4) The applicant shall deliver to the Master the original lease or agreement or a copy thereof; and if the applica-

tion is granted the Master shall make a note on the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given. R.S.O. 1897, c. 138, s. 73 (1); 7 Edw. VII. c. 30, s. 9.

(5) If the registered owner concurs in a registration under subsection 2 or subsection 3, notice may be entered in such manner as may be agreed upon. R.S.O. 1897, c. 138, s. 73 (2).

(6) When so registered every registered owner of the land and every person deriving title through him, excepting owners of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an incumbrance on the land, in respect of which the notice is entered.

(7) Where notice of such lease or agreement has been registered the Master, on proof, to his satisfaction of the determination of the lease or agreement, shall in the prescribed manner note the determination on the register. R.S.O. 1897, c. 138, s. 72 (2-3).

(8) Where a notice of a lease or of an agreement for a lease has been registered under this section, a transferee or a chargee of the lease or agreement may apply to have a notice of his transfer or charge entered on the register. *New.*

(9) Uuless the transferee or chargee has actual notice of a prior transfer or charge, a transfer or charge in respect of which a notice has been entered, shall take priority of one of which notice has not been entered. *New.*

Notice of Estates in Dower or by the Curtesy.

Registration of notices of estates in dower or by the curtesy. Imp. 38 & 39 V., c. 87, s. 52.

71. Any person entitled to an estate in dower or by the curtesy in any registered land, may apply in the prescribed manner to the proper Master of Titles to register notice of such estate; and the Master, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly. R.S.O. 1897, c. 138, s. 74.

Caution against Registered Dealings.

Caution against regis-

72.—(1) Any person interested in any way in any land or charge registered in the name of any other person, may

tered dealings, how to be lodged. Imp. 38 & 39 V., c. 87, s. 53.

lodge a caution with the proper Master of Titles to the effect that no dealings with such land or charge be had on the part of the registered owner or other named person who is shown to have an interest in the land until notice has been served upon the cautioner. R.S.O. 1897, c. 138, s. 75 (1); 7 Edw. VII. c. 30, s. 10.

(2) The caution shall be supported by an affidavit made by the cautioner or his agent or solicitor in the prescribed form, and containing the prescribed particulars.

(3) A person interested under a lease, or agreement for a lease, of which notice has been entered on the register, or a person entitled to an estate in dower, or by the curtesy, of which notice has been entered on the register, shall not be entitled to lodge a caution in respect of such lease or agreement or estate in dower or by the curtesy. R.S.O. 1897, c. 138, s. 75.

(4) Every caution founded upon an execution or upon an allegation that a transfer, charge or other dealing is fraudulent shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect, and every such caution lodged five years before the passing of this Act shall, unless renewed, cease to have effect one year from the passing of this Act. *New.*

Cautioner entitled to notice of proposed registered dealings.

Imp. 38 & 39 V., c. 87, s. 54.

73.—(1) After any such caution has been lodged, the proper Master of Titles shall not, without the consent of the cautioner, register any dealing with the land or charge until after notice to the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next ensuing the date at which the notice is served.

(2) After the expiration of such time the Master shall enter a cessation of the caution unless good cause for its continuance is shown. *New.*

(3) Upon the caution so ceasing, the land or charge shall be dealt with in the same manner as if no caution had been lodged.

When notice of proposed registered dealings need not be given to cautioner.

(4) A notice to a cautioner shall not be required where the dealing proposed to be registered is under the authority of a judgment or order of court in a suit or proceeding to which the cautioner is a party, or where such dealing is under a power of sale contained in a charge or mortgage which is prior to the title under which the cautioner claims, and the cautioner has been served with a notice of the pro-

posed exercise of the power of sale, and the caution is not in respect of the exercise of the power of sale, or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution.

(5) The Master upon receiving the consent of the cautioner to the registration of a dealing may discharge the caution unless the consent provides for its continuance, or he may discharge the caution as to the land or charge to which the dealing applies, but he shall not do so where from the nature of the dealing he is of opinion that the continuance of the caution is contemplated. *New.* R.S.O. 1897, c. 138, s. 76.

Registered owner objecting to the registration of his transferee.

74.—(1) Where the registered owner of any freehold or leasehold land has executed a transfer or a charge thereof, but claims that on account of special circumstances shown by affidavit the transferee or chargee should not be registered without notice to the registered owner, the proper Master of Titles may permit the registration of a caution by the registered owner. R.S.O. 1897, c. 138, s. 77 (1); 7 Edw. VII. c. 30, s. 11.

(2) The registration of such caution shall stay the registration of the transfer until such notice has been served on the cautioner in accordance with the provisions of section 73. R.S.O. 1897, c. 138, s. 77, (2).

Registered dealings delayed on security being given.

Imp. 38 & 39 V., c. 87, s. 55.

75. If before the expiration of the prescribed period the cautioner or some person on his behalf, appears before the proper Master of Titles, and within such period, or such additional period as the Master may allow, gives sufficient security to indemnify every person against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the Master may delay registering any dealing with the land or charge for such further period as he deems just, or may instead of taking the security register such dealing, subject to the caution on any condition which he thinks fit to impose, as to security or otherwise, or may make such other order as he deems just. R.S.O. 1897, c. 138, s. 78; 7 Edw. VII. c. 30, s. 12 (1).

Entry of second caution.

76. A second caution by the same cautioner, or by any other person in respect of the same matter, shall not be lodged, or if lodged shall not be entered, or have any effect without the special permission of the proper Master of Titles, which may be given either upon terms or without terms, as he may think proper. R.S.O. 1897, c. 138, s. 79; 7 Edw. VII. c. 30, s. 12 (2).

Sale of Standing Timber.

Sale of standing timber.

77. Where timber standing upon registered land is sold under an agreement in writing, the purchaser, instead of entering a caution, may deposit the agreement with the proper Master of Titles, and the Master, upon proof of the due execution thereof by the owner, shall register the same as an incumbrance upon the land by entering a memorandum upon the register referring to the instrument and giving shortly the effect thereof. R.S.O. 1897, c. 138, s. 80.

Inhibition against Registered Dealings.

Power of court or master to inhibit registered dealings.

Imp. 38 & 39 V., c. 87, s. 57.

78.—(1) The Court or the proper Master of Titles upon the application of any person interested, made in the prescribed manner in relation to any registered land or charge, after directing such inquiries, if any, to be made and notices to be given, and after hearing such persons as the Court or Master deems expedient, may issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with registered land or with a registered charge.

(2) The Court or the Master may make an order or an entry, and may impose any terms or conditions which may be deemed just, and may discharge the order or cancel the entry, with or without costs, and generally act in the premises in such manner as the justice of the case requires. R.S.O. 1897, c. 138, s. 81.

Power of Registered Owner to Impose Restrictions.

Power to place restrictions on register.

Imp. 38 & 39 V., c. 87. s. 58.

79.—(1) Where the registered owner of freehold or leasehold land or of a charge desires to place restrictions on transferring or charging the land or charge, he may apply to the proper Master of Titles to make an entry on the register that no transfer shall be made or charge created unless the following things, or such of them as the owner may determine, are done; that is to say—

(*a*) Unless notice of any application for a transfer or for the creation of a charge is transmitted by registered post to such address as he may specify to the Master;

(*b*) Unless the consent of some person or persons, to be named by the owner, is given to the transfer or the creation of a charge; or

(*c*) Unless some other matter or thing is done as may be required by the applicant and approved by the Master. R.S.O. 1897, c. 138, s. 82; 7 Edw. VII. c. 30, s. 13.

(2) If the Master is satisfied of the right of the applicant to give such directions, he shall make a note of them on the register, and no transfer shall be made or charge created except in conformity therewith. Master to enter restrictions in register. Imp. 38 & 39 V., c. 87, s. 59.

(3) The Master shall not be required to enter any direction, except upon such terms as to payment of the fees and otherwise as may be prescribed, or to enter any restriction that he may deem unreasonable, or calculated to cause inconvenience.

(4) Any such direction may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in such direction, and shall also be subject to be set aside by the Court. R.S.O. 1897, c. 138, s. 83; 7 Edw. VII. c. 30, s. 13.

PART VI.

SUPPLEMENTAL PROVISIONS.

Notice of Registered Instruments.

80. No person other than the parties thereto shall be deemed to have any notice of the contents of any instruments other than those mentioned in the existing register of title of the parcel of land or which have been duly entered in the books of the office kept for the entry of instruments received or are in course of entry. R.S.O. 1897, c. 138, s. 84. Notice by registration.

Caution Against Entry of Land on Register.

81.—(1) Any person having or claiming such an interest in any unregistered land as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the proper Master of Titles to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land. Caution against registration of land. Imp. 38 & 39 V., c. 87, s. 60.

(2) Every caution under this section shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect. Renewal of every five years.

(3) No caution registered under this section in respect of any unpatented land shall be of any validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the Patent, or describes the same in such manner that the Master may know that the description in the caution is intended to affect the land described in the Patent. R.S.O. 1897, c. 138, s. 85. *Amended.*

Cautions as to Actions Pending.

Lis pendens not to be registered.

82. A certificate of *lis pendens* affecting land shall not be registered, but any party to an action, or his solicitor, or any person claiming to be interested in the action, may lodge a caution subject to the same conditions as in other cases. R.S.O. 1897, c. 138, s. 86.

General Provisions as to Cautions.

Cautioner entitled to notice of proposed registration of land.

Imp. 38 & 39 V., c. 87, s. 62.

83. After a caution has been lodged in respect of any unregistered land, and while the same is in force, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose such registration, and until the prescribed time has elapsed after the date of the service of such notice, or the cautioner has appeared, whichever may first happen. R.S.O. 1897, c. 138, s. 88.

Caution to be supported by affidavit.

Imp. 38 & 39 V., c. 87, s. 61.

84. Every caution shall be supported by an affidavit in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution, and such other matters as may be prescribed. R.S.O. 1897, c. 138, s. 87.

Caution Wrongfully Lodged.

Compensation for improper lodging of caution.

Imp. 38 & 39 V., c. 87, s. 63.

85. Any person who lodges a caution without reasonable cause shall be liable to make to any person who may sustain damage by the lodging of such caution such compensation as may be just; and such compensation shall be deemed to be a debt due from the person who has lodged the caution to the person who has sustained damage. R.S.O. 1897, c. 138, s. 89.

Effect of caution.

Imp. 38 & 39 V., c. 87, s. 64.

86.—A caution shall not prejudice the claim or title of any person, and shall have no effect except as in this Act provided. R.S.O. 1897, c. 138, s. 90.

Costs.

87.—(1) Any applicant under this Act shall be liable *prima facie* to pay all costs, charges, and expenses incurred by or in consequence of his application, except where parties whose rights are sufficiently secured without their appearance object, or where any costs, charges or expenses are incurred unnecessarily or improperly. Payment of costs. Imp. 38 & 39 V., c. 87, s. 73.

(2) The proper Master of Titles may order costs, either as between party and party, or as between solicitor and client to be paid by or to any person, party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid, regard being had to the provisions of subsection 1.

(3) Any person aggrieved by an order of the Master made under this section may appeal in the prescribed manner to the Court, which may annul or with or without modification, confirm the order of the Master. R.S.O. 1897, c. 138, s. 91.

(4) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court, and thereupon, subject to such right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the Court. R.S.O. 1897, c. 138, s. 92. Enforcement of order.

Doubtful Questions of Law or Fact.

88.—(1) Where upon the examination of a title or upon an application with respect to registered land the proper Master of Titles entertains a doubt as to any matter of law he may state a case for the opinion of the Court and may name the parties to it; and where he entertains a doubt as to any matter of fact he may direct an issue to be tried for the purpose of determining such fact. R.S.O. 1897, c. 138, ss. 93-94; 7 Edw. VII. c. 30, s. 14. *Amended.* Master may state a case for opinion of court, or apply for direction to try the issue. Imp. 38 & 39 V., c. 87, c. 74.

(2) The practice and procedure on and incidental to a case stated or on an issue directed under this section and the right to appeal from the judgment or other determination thereof shall be the same as on a special case or on an issue directed in an action. *New.*

(3) The powers conferred by this section shall not be exercised by a local Master of Titles except with the approval of the Inspector. *New.*

Intervention of Court in case of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 76.

89.—(1) Where any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or person yet unborn is interested in the land in respect of the title to which a question arises *as aforesaid*, any person interested in the land may apply to the Court for a direction that the opinion of the Court to which the case is stated under this Act shall be conclusively binding on such infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person. R.S.O. 1897, c. 138, s. 95.

Power of Court to bind interests of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 77.

(2) The Court shall hear the allegations of all parties appearing before it, and may disapprove altogether, or may approve, either with or without modification, of the directions of the proper Master of Titles in respect to any case stated as to the title of land.

(3) The Court may also, if necessary, appoint a guardian or other person to appear on behalf of any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person.

(4) The Court, if satisfied that the interests of the person under disability, absent, or unborn, will be sufficiently represented in any case, shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound; and thereupon all persons, with such exceptions, shall be conclusively bound by the decision of the Court. R.S.O. 1897, c. 138, s. 96.

Certificates of Ownership, Office Copies of Leases, and Certificates of Charge.

Loss of Land certificate, or certificate of charge, or office copy of lease.

Imp. 38 & 39 V., c. 87, s. 78.

90. If any certificate of ownership or office copy of a registered lease or certificate of charge is lost, mislaid, or destroyed, the proper Master of Titles, upon being satisfied of that fact, may grant a new certificate of ownership or office copy or certificate of charge in place of the former one. R.S.O. 1897, c. 138, s. 98.

Renewal of land certificate, or certificate of charge, of office copy of lease.

Imp. 38 & 39 V., c. 87, s. 79.

91. The proper Master of Titles, upon the delivery up to him of a certificate of ownership, or of an office copy of a registered lease or of a certificate of charge, may grant a new certificate of ownership or office copy of lease or certificate of charge in place of the one delivered up. R.S.O. 1897, c. 138, s. 99.

Land certificate, certificate of charge, and office copy of

92. A certificate of ownership or certificate of charge shall be *prima facie* evidence of the matters therein contained, and the office copy of a registered lease shall be

evidence of the contents of the registered lease. R.S.O. 1897, c. 138, s. 100.

lease to be evidence. Imp. 38 & 39 V., c. 87, s. 80.

93. Subject to any registered estates, charges, or rights the deposit of the certificate of ownership in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land for the purpose of creating a lien on the land to which such certificate or lease relates, shall be deemed equivalent to a deposit of the title deeds of the land. R.S.O. 1897, c. 138, s. 101.

Effect of deposit of land certificate, or of office copy of lease. Imp. 38 & 39 V., c. 87, s. 81.

Incorporeal Hereditaments, Mining Rights and Easements.

94.—(1) The proper Master of Titles may register the owner of any incorporeal hereditament of freehold tenure, enjoyed in gross, also the owner of any mines or minerals where the ownership of the same has been severed from the ownership of the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register the owner of land, or as near thereto as circumstances admit. R.S.O. 1897, c. 138, s. 102.

Registry of special hereditaments. Imp. 38 & 39 V., c. 87, s. 82.

(2) Where an easement in or over unregistered land is granted as appurtenant to registered land, the Master, after such examination as he deems necessary, may enter such easement in the register of the dominant land with a declaration that the title thereto is absolute, qualified or possessory, or otherwise as the case may require, and shall cause to be registered in the proper registry division a certificate of such entry.

Registration of easements when dominant land registered.

(3) Where an easement in or over registered land is granted as appurtenant to unregistered land the Master may issue a certificate setting out such easement and the land to which it is appurtenant, which may be registered in the registry division in which the land is situate and he shall note on the register that such certificate has been issued. 7 Edw. VII. c. 30, s. 15.

Certificate of easement when dominant land unregistered.

General Provisions.

95.—(1) There shall not be entered on the register or be receivable any notice of any trust, express, implied, or constructive.

Enactment as to registration. Imp. 38 & 39 V., c. 87, s. 83.

(2) Describing the owner of any freehold or leasehold land or of any charge as a trustee, whether the beneficiary or object of the trust is or is not mentioned, shall not be deemed a notice of a trust within the meaning of this section, nor

Trusts.

shall such description impose upon any person dealing with such owner the duty of making any enquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise; but, subject to the registration of any caution or inhibition, such owner may deal with the land or charge as if such description had not been inserted.

(3) Where two or more owners are described as trustees, the property shall be held to be vested in them as joint tenants unless the contrary is expressly stated. R.S.O. 1897, c. 138, s. 103, par. 1; 2 Edw. VII. c. 19, s. 1.

(4) Nothing in this section shall prevent the registration of a charge given by an incorporated company for the purpose of securing bonds or debentures of the company. 9 Edw. VII. c. 26, s. 15.

Undivided shares.

96.—(1) No person shall be registered as owner of any undivided share in any freehold or leasehold land or of any charge apart from the other share or shares.

(2) The share of each owner may be stated, and where the extent of his interest appears on the register, or by the statement of his co-owners, he may transfer or charge his share, or he may without such statement transfer his share to his co-owners. R.S.O. 1897, c. 138, s. 103, pars. 1 and 2. *amended.*

97.—(1) Where the number of persons who may be registered as the owners of the same freehold or leasehold land or charge is limited by a Rule, a number of persons exceeding the number prescribed shall not be registered as owners of such land or charge; and if the number of persons shewing title exceeds the prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or as the proper Master of Titles in case of difference decides, shall be registered as owners.

(2) Upon the registration of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register, to the effect that when the number of such owners is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the Court.

'No survivorship."

(3) In such a case the words "No survivorship" in the entry shall be construed to mean that if any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the Court. R.S.O. 1897, c. 138, s. 103, pars. 3, 4, 5.

98.—(1) Registered land shall be described in such manner as the proper Master of Titles deems best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the land. Description of land.

(2) No alteration shall be made in the registered description of land, except under the order of the Court, or under section 119, or by way of explanation, or under Rules of Court; but this provision shall not extend to registered dealings with registered land in separate parcels, although such land was originally registered as one parcel. R.S.O. 1897, c. 138, s. 103, pars. 6, 7.

99.—(1) There may be registered as annexed to any land which is being or has been registered, subject to general rules and in the prescribed manner, a condition or covenant that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land. R.S.O. 1897, c. 138, s. 104 (1); 7 Edw. VII., c. 30, s. 16 (1). Annexation of conditions or covenants to registered land. Imp. 38 & 39 V., c. 87, s. 34.

(2) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant; but any such condition or covenant may be modified or discharged by order of the Court, on proof to the satisfaction of the Court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant. R.S.O. 1897, c. 138, s. 104.

(3) The entry on the register of a condition or covenant as running with or annexed to land shall not make it run with the land, if such covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land. Covenants or conditions running with land.

(4) Where a condition or covenant has been entered on the register as annexed to or running with land, and a similar condition is contained in a subsequent transfer or a similar covenant is in express terms entered into with the owner of the land by a subsequent transferee, or *vice versa*, it shall not be necessary to repeat such condition or covenant on the register or to refer thereto, but the proper Master of Titles may, upon a special application, enter such condition or covenant either in addition to or in lieu of the condition or covenant first mentioned. 7 Edw. VII., c. 30, s. 16 (2). Subsequent transfers.

100. All the provisions of *The Trustee Act* which are not inconsistent with the provisions of this Act shall apply Registered land to be within Rev. Stat. c. 129.

Imp. 38 & 39 V., c. 87, s. 85.

to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of that Act relating to land or choses in action. R.S.O. 1897, c. 138, s. 105.

Indemnity of Master of Titles.

Imp. 38 & 39 V., c. 87, s. 86

101. Neither the Master of Titles, nor any Local Master of Titles, or any person acting under their authority, or under any order of Court or general rule, shall be liable to any action, suit, or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Act, or of any such order or general rule. R.S.O. 1897, c. 138, s. 106.

Instruments need not be Sealed.

Charges and transfers may be made without seal.

102. Notwithstanding the provisions of any statute, or any rule of law, any charge or transfer of land registered under this Act may be duly made by an instrument not under seal, and if so made, the instrument and every agreement, stipulation and condition therein shall have the same effect for all purposes as if it were made under seal. R.S.O. 1897, c. 138, s. 107. *Amended.*

Married Women.

Execution of instruments by married women.

103. A married woman shall for the purposes of this Act be deemed a *feme sole,* and may execute without seal any bar of dower or other instrument required under this Act. R.S.O. 1897, c. 138, s. 108.

Persons under Disability.

Where any party is a minor or lunatic. guardian, etc., may act.

Imp. 38 & 39 V., c. 87, s. 88.

104.—(1) In case any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is an infant, an idiot, or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceedings as such person, if free from disability, might have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

Official guardian to act if no guardian, etc., or Master may appoint some person.

(2) If the infant has no guardian, or the idiot or lunatic has no committee of his estate, or if a person yet unborn is interested, the official guardian shall act with like power, or the proper Master of Titles may appoint a person with like power to act for the infant, idiot, lunatic, or person yet unborn. R.S.O. 1897, c. 138, s. 97.

Plans.

Plan of lots to be sold by plan to be registered

105.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall register in the proper Land Titles Office a plan of the land on a scale of not less than one inch to every four chains.

Lot number to be shown.

(2) The plan shall show in black India ink the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land being subdivided, except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show in ink of another colour the numbers or other distinguishing marks of the lot or lots subdivided and by broken lines the boundary lines thereof.

Each lot to be numbered and scale shown.

(3) The number or other distinguishing mark, and the width both front and rear shall be marked on each lot of the subdivision in black India ink, the scale shall also be marked on the plan, and such information as will show the depth of the lots and the courses of all the boundaries of or the division lines between the same, and the governing line or lines to which such courses are referred shall also be indicated.

Posts or monuments.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

Roads, railways, rivers, etc.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, mill-ponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land.

No two lots to have same number.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by numbers the lots shall be numbered consecutively.

To show what land is laid out.

(7) The plan shall also show distinctly what land is being laid out thereby, and shall by proper colouring distinguish such land from all other land shown on the plan, but not in fact laid out thereby, and the last mentioned land shall be shown uncoloured.

Mounting and size of plan.

(8) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size, and no such plan shall be less than twenty-four inches in length or twelve inches in width.

To be signed by owner and certified by land surveyor.

(9) The plan before being registered shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall be certified by an Ontario Land Surveyor in the prescribed form.

Master may require explanation.

(10) The proper Master of Titles, before filing the plan, may require evidence to be given explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter of which he requires explanation. *New.*

See 10 Edw. VII., c. 60, s. 80.

Delivery of plans to municipal treasurers.

(11) Every person who deposits a plan of any survey or subdivision of land made by such person for the purpose of selling or conveying the same in lots, or of any alteration of a previous survey or subdivision, shall at the same time deposit a duplicate of such plan, and the Master shall endorse thereon a certificate showing the number of such plan and the date when the duplicate original thereof was filed with him, and the same shall be delivered by the Master to the treasurer, or assessment commissioner of the local municipality in which the land is situate upon request and without fee.

(12) The Master shall not file or register any plan unless and until a duplicate thereof is deposited in accordance with the provisions of subsection 11. R.S.O. 1897, c. 138, s. 109.

Master may require plan to be registered in certain cases.

106.—(1) In cases not provided for by section 105, the proper Master of Titles may require a person applying for registration to deposit a plan of the land, with the several measurements marked thereon, certified by an Ontario Land Surveyor, and as many counterparts as may be required, upon one of the following scales:—

Rules 50 and 51 made under Imp. Act 38 and 39 V.,

(*a*) If the land, or the part thereof proposed to be transferred or dealt with, is of less area than one acre, the plan shall be on a scale not less than one inch to two chains;

(*b*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, the plan shall be on a scale not less than one inch to five chains;

(*c*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, the plan shall be on a scale not less than one inch to ten chains;

(*d*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than eighty acres, the plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the plan and verify its accuracy before some person authorized under section 132.

(3) If the owner neglects or refuses to comply with such requirements, the Master may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent subdivisions of the same land may be delineated upon a duplicate of the plan so deposited, if the scale upon which it is drawn permits of that being done in conformity to the provisions of subsection 1; and the accuracy of the delineation of each such subdivision shall be certified and verified in the manner prescribed by subsections 1 and 2.

(5) Where the land of which a plan is directed to be deposited includes parts of different subdivisions, the plan shall represent the whole of each subdivision and shall indicate the location of the land to be transferred; but this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered, unless the Master otherwise directs.

See Rules No. 67.

Plan of street, road, lane, or common.

107. In case a plan of subdivision lays out any portion of the land as a street, road, lane or common, it shall not be registered unless on the application of the owner of the land subdivided, with the consent in writing of all persons who are registered as mortgagees or chargees thereof. Vide R.S.O. 1897, c. 136, s. 102 (4).

Instruments must conform to plan.

108. All instruments affecting the land or any part thereof lodged with the proper Master of Titles after a plan

is registered, shall conform and refer thereto, or registration shall not be had thereunder, unless the Master under special circumstances deems it proper to accept the same. *New.*

Filing plans with roads less than 66 feet in width.

109. No plan upon which a road, street or highway less than 66 feet wide is laid out shall be registered unless and until the assent of the proper municipal council is registered therewith where such assent is by law necessary, and no plan upon which a street, road or lane is laid out shall be filed in any such office unless there is filed therewith the approval of the proper municipal council or unless such plan is approved by a Judge of the County or District Court of the county or district in which the land lies, where the same is not in the County of York or City of Toronto, or by the Master of Titles where the land is in the County of York or City of Toronto, after notice in each case to the proper municipal council. R.S.O. 1897, c. 138, s. 110; 8 Edw. VII., c. 38, s. 1.

Plan not binding unless sale made according to it.

110.—(1) No plan, although registered in an office of Land Titles, shall be binding on the person registering the same, or upon any other person, unless a sale has been made according to such plan; and in all cases amendments or alterations thereof may be ordered to be made at the instance of the person registering the same or his assigns,

Amendment of plans.

(*a*) By the High Court, or by a Judge thereof,

(*b*) Where the land is not in the County of York or City of Toronto, by a Judge of the County or District Court of the county or district in which the land lies, or

(*c*) Where the land is in the County of York or City of Toronto by the Master of Titles,

if on application for the purpose duly made, and upon hearing all persons concerned, it is thought just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed just and expedient.

(2) An appeal shall lie from any such order to the Court of Appeal. R.S.O. 1897, c. 138, s. 111.

Transfer of plans from registry offices.

111. Where all the lots on any plan of subdivision registered in a registry office are registered under this Act, the proper Master of Titles may require the Registrar to deliver the plan to him to be registered in his office; and the Registrar shall thereupon deliver the same, taking a receipt therefor. R.S.O. 1897, c. 138, s. 112.

Notices.

112.—(1) Every person whose name is entered on the register as owner of freehold or leasehold land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish a place of address in Ontario, and may from time to time substitute some other place of address in Ontario for that originally furnished. Address of persons on register. Imp. 38 & 39 V., c. 87, s. 89.

(2) If any such person fails to furnish a place of address for service, a notice sent by post addressed to such person at the place named in the registered instrument under which he claims, as his place of residence, shall be sufficient, unless the proper Master of Titles otherwise directs. R.S.O. 1897, c. 138, s. 113.

(3). Every notice by this Act required to be given to any person shall be served personally, or sent by registered post directed to such person at the address or last address, as the case may be, furnished, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of posting, as may be prescribed. R.S.O. 1897, c. 138, s. 114. Service of notices. Imp. 38 & 39 V., c. 87, s. 90.

(4) The envelope containing any notice under this Act shall have printed thereon the words "Office of Land Titles," and a request in the prescribed manner for the return thereof to the office of Land Titles, in case the person to whom the notice is addressed cannot be found. Return of notices by post-office. Imp. 38 & 39 V., c. 87, s. 91.

(5) On the return of any envelope containing any notice, the Master shall act in the matter requiring the notice to be given in the manner prescribed. R.S.O. 1897, c. 138, s. 115.

113. A purchaser for valuable consideration when registered shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof. R.S.O. 1897, c. 138, s. 116. Purchasers for value not affected by omission to send notices. Imp. 38 & 39 V., c. 87, s. 92.

Specific Performance.

114.—(1) Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the Court having cognizance of the action may by such mode as it deems expedient, cause all or any persons who have registered estates or rights in the land or charge, or have entered notices, cautions or inhibitions against the same, to appear in the action, and shew cause why the contract should not be specifically performed; and the Court may direct that any order made by the Court in the action shall be binding on such persons or any of them. R.S.O. 1897, c. 138, s. 117. Power of court in action for specific performance. Imp. 38 & 39 V., c. 87, s. 93.

Costs in action for specific performance.

Imp. 38 & 39 V., c. 87, s. 94.

(2) All costs awarded to any person so appearing may, if the Court so orders, be taxed as between solicitor and client. R.S.O. 1897, c. 138, s. 118. *Amended.*

Rectification of the Register.

Establishment of adverse title to land.

Imp. 38 & 39 V., c. 87, s. 95.

115. Subject to any estates or rights acquired by registration in pursuance of this Act, where any Court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision the Court is of opinion that a rectification of the register is required, the Court may make an order directing the register to be rectified in such manner as may be deemed just. R.S.O. 1897, c. 138, s. 119.

Register to be rectified under order of court.

Imp. 38 & 39 V., c. 87, s. 96.

116. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made, or by the omission of any entry from the register, or if default is made or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay, may apply to the Court in the prescribed manner for an order that the register may be rectified; and the Court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, make an order for the rectification of the register. R.S.O. 1897, c. 138, s. 120.

Master to obey orders of court.

Imp. 38 & 39 V., c. 87, s. 97.

117. The Master of Titles and the Local Masters of Titles shall obey the order of any competent Court in relation to any registered land, on being served with the order or an office copy thereof. R.S.O. 1897, c. 138, s. 121.

Cancellation of fraudulent entries.

118.—(1) Upon the conviction under this Act, or under the Criminal Law of Canada, of any person for an offence whereby such person fraudulently procured an entry on the register by reason of which any person other than the rightful owner has become the registered owner of land, or by reason of which land under this Act has been wrongfully incumbered, the proper Master of Titles, on the application of the rightful owner, may cancel such wrongful entry and may enter the rightful owner as the registered owner of the land.

Where land has been transferred to innocent holder.

(2) If while the wrongful entry was subsisting on the register any innocent person has been registered as the owner of any charge upon, or any estate, right or interest in the land, the Master, instead of cancelling the wrongful

entry may make an entry on the register stating the fact of the conviction and revesting the land in the rightful owner subject to such charge, estate, right or interest, and the land shall thereupon be vested in the person named in such last mentioned entry in accordance with the terms thereof.

(3) This section shall apply to past as well as future cases. 1 Edw. VII., c. 16, s. 1.

Entry of caution by Master in case of error.

119.—(1) The proper Master of Titles may *sua sponte* and without affidavit enter a caution to prevent the dealing with any registered land when it appears to him that an error has been made in any entry by mis-description of such land, or otherwise.

Correction of errors.

(2) Subject to the rules the Master, before the receipt of any conflicting instrument, or after notifying all persons interested, upon such evidence as appears to him sufficient, may correct errors and supply omissions in certificates of ownership or of charge, or in the register, or in any entry therein, and may call in any outstanding certificate for that purpose. R.S.O. 1897, c. 138, s. 122.

Restoration of covenants or conditions and compensation therefor.

(3) Where the Master under this section restores to the register any covenant or condition he may do so with such modifications as he deems advisable so as to do the least possible injury to the persons affected by their omission, or by their restoration, and upon notice to the Attorney-General for Ontario, at the same time or subsequently may determine what damages, if any, shall be paid to any of the persons claiming to have been injuriously affected by the omission of the covenants or by their restoration. 2 Edw. VII., c. 19, s. 2.

Correction of errors in patents after registration. Rev. stat. c. 28.

120. Where land has been registered under this Act, and the Minister of Lands, Forests and Mines under *The Public Lands Act* directs an incorrect patent to be cancelled and a correct one to be issued in its stead, the proper Master of Titles, upon receipt of the subsequent patent, if no conflicting instrument has been received, shall amend the entry on the register to accord with the amending patent, or if a conflicting instrument has been received, the Master, after notifying all persons interested, may make such amendment. R.S.O. 1897, c. 138, s. 123.

Fraud.

Fraudulent dispositions. Imp. 38 & 39 V., c. 87, s. 93.

121. Subject to the provisions of this Act with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which, if unregis-

tered, would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. R.S.O. 1897, c. 138, s. 124.

Certain fraudulent acts declared to be offences.

Imp. 38 & 39 V., c. 87, s. 100.

122.—(1) Any person who fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, shall be guilty of an offence under this Act, and upon conviction shall be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding $1,000 as the Court before which he is tried may adjudge.

(2) Any such entry, erasure, or alteration shall be void as between all parties or privies to the fraud. R.S.O. 1897, c. 138, s. 126. *Amended.*

See The Criminal Code, ss. 175 and 420, as to the fraudulent registration of titles and making false affidavits.

ASSURANCE FUND.

Assurance fund.

123.—(1) An Assurance Fund shall be formed for the indemnity of persons who may be wrongfully deprived of land or some estate or interest therein by reason of the land being brought under the provisions of this Act, or by reason of some other person being registered as owner through fraud, or by reason of any misdescription, omission, or other error in a certificate of ownership or of charge or in any entry on the register. R.S.O. 1897, c. 138, s. 130 (1).

Assurance fund, how constituted.

(2) In order to constitute such fund, there shall be payable on the first registration under this Act of any land with an absolute or qualified title, in addition to all other fees a sum equal to one-fourth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-tenth of one per cent. of the value of the buildings and fixtures, and with a possessory title one-eighth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-twentieth of one per cent. of the value of the buildings and fixtures. 3 Edw. VII., c. 12, s. 5.

(3) Where the sum to be paid under the foregoing provision does not amount to $1, the amount payable shall be $1. 3 Edw. VII., c. 12, s. 5.

(4) Subject to the rules, money payable under subsections 2 and 3 shall be paid into Court, with the privity of the Accountant of the Supreme Court, and shall be placed to

the credit of an account to be intituled "Assurance Fund under the Land Titles Act," and subject to the provision of subsection 5, shall be invested from time to time under the direction of the Court, and the interest or income derived therefrom shall be credited to the same account. R.S.O. 1897, c. 130, s. 130 (3).

(5) All money paid under this section, and in Court at the credit of the "Assurance Fund" and all money hereafter payable under this section shall, on his demand, be paid to the Treasurer of Ontario. 10 Edw. VII., c. 61, *part.*

(6) Where the amount to be paid into the assurance fund is not more than $10, no fee shall be payable for a direction to the bank to receive the same, and where such amount is payable in respect of a proceeding before a Local Master of Titles, the person desiring to pay the same may, at his own risk, transmit the amount by a money order, payable to "The Accountant of the Supreme Court at Toronto," in a registered letter addressed to the Accountant, together with a requisition in the prescribed form.

Valuation of the land by applicant.

(7) Subject to the rules the value of the land shall be ascertained by the oath of the applicant, unless the proper Master of Titles dispenses therewith.

Master may obtain valuation.

(8) Subject to the rules, if the oath of the applicant is dispensed with, or if the Master is not satisfied as to the correctness of the value stated by the oath of the applicant or of any other person, he may require the affidavit or certificate in that behalf of a sworn valuator; and such affidavit or certificate shall be conclusive.

(9) The expense of obtaining such valuation or certificate as allowed by the Master shall be paid to the Master by the registered owner, before any dealing with the land is registered. R.S.O. 1897, c. 138, s. 131.

Expenses of valuation.

(10) The Master may require any applicant for registration to indemnify the Assurance Fund against loss by a bond or covenant to His Majesty, either with or without sureties or by such other security as he considers expedient. R.S.O. 1897, c. 138, s. 130 (3-7). *Amended.*

Election to have fees for assurance funds made charge.

(11) It shall not be necessary that the assurance fees payable on first registration be then paid, but if not then paid the same shall be a charge on the land, and the amount with interest at 5 per cent. compounded annually shall be stated in the entry of ownership to be a charge on the land, and

no subsequent transfer or charge of the land or any transmission thereof, or any part thereof, shall be registered, except as is in this section provided, until the amount of such charge shall have been paid into the Assurance Fund and proper proof of such payment furnished to the Master, but this subsection shall not apply to cases coming within subsection 12.

Proviso.

(12) In the case of land situate in any of the Provisional Judicial Districts where the letters patent or a certified copy of the order in council granting the land has been forwarded to the Local Master of Titles for the purpose of registration, and the amount payable into the Assurance Fund is not paid, a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee, and no subsequent transfer or charge of the land or any transmission thereof shall be registered until such assurance fee, namely, a sum equal to one-fourth of one per cent. of the value at the time of payment of the land apart from the buildings or fixtures and one-tenth of one per cent. of the value of the buildings erected on or affixed thereto before the first registration thereof, but not in any case less than one dollar in respect of any parcel, is paid. R.S.O. 1897, c. 138, s. 171 (2); 6 Edw. VII., c. 19, s. 20 (2). *Amended.*

(13) Where land is sold for taxes, or upon the winding up of a company, or under execution, or under the order of a Court, the Master may register the new immediate ownership subject to such charge, and where part of a parcel is so sold or is expropriated he may, upon proof of payment of the proportion of such assurance fund charge which he deems to be fairly attributable to the part so sold or expropriated, note in the register the fact of such payment in respect of the land so sold or expropriated, and enter that part as free of the charge.

(14) Where land exceeding 400 acres is entered in one parcel the Master, upon a transfer of part of such parcel, may, in like manner, allow payment of a proportionate part of the assurance fees and enter the part transferred free of the charge. 3 Edw. VII., c. 12, s. 6, *amended;* 7 Edw. VII., c. 30, s. 21, *amended.*

Remedy of person wrongfully deprived of land.

124.—(1) Any person wrongfully deprived of land, or of some estate or interest therein, by reason of the land being brought under this Act, or by reason of some other person being registered as owner through fraud or by reason of any misdescription, omission or other error in any certificate of ownership or charge, or in any entry on the register, shall be entitled to recover what is just, by way of compensation

or damages, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error. R.S.O. 1897, c. 138, s. 132 (1); 7 Edw. VII., c. 30, s. 18.

(2) Subsection 1 shall not render liable any purchaser or mortgagee in good faith for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error, or having derived title from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise.

(3) If the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he shall be entitled to have the same paid out of the assurance fund, so far as the fund may be sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived; or, in the case of a person under the disability of infancy, lunacy or unsoundness of mind, within six years from the date at which the disability ceased.

(4) The liability of the fund for compensation and the amount of compensation shall, subject to appeal as in other cases, be determined by the Inspector, unless the Court or the Inspector on application directs some other way of ascertaining and determining the same.

(5) The costs of the proceedings shall be in the discretion of the Court or of the Inspector.

(6) Any sum paid out of the assurance fund may afterwards for the benefit of the fund be recovered by action in the name of the Inspector, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error or from his estate and the Inspector's certificate of the payment out of the assurance fund shall be sufficient proof of the debt, but where the erroneous registration was made or the title acquired by mere error and without fraud, credit shall be given for any sum which such person may have paid into the assurance fund in respect of such land. R.S.O. 1897, c. 138, s. 132 (2-5). *Amended.*

(7) Where a registered disposition would, if unregistered, be absolutely void, or where the effect of the error would be to deprive a person of land of which he is in possession, or in receipt of the rents and profits, the Inspector may in the first instance or after a reference to the Court

Imp. Act, 60-61 V., c. 65, s. 7 (2).

Rectification of register.

direct the rectification of the register, and in case of such rectification the person suffering by the rectification shall be entitled to the compensation provided for by this section. 7 Edw. VII., c. 30, s. 17.

Valuation of mining lands where compensation claimed out of assurance fund.

125.—(1) Where any person makes a claim upon the assurance fund for compensation in respect of land patented as mining land or in respect of any land the chief value of which consists in the ores, mines or minerals therein and it appears that such person is entitled to recover in respect of such land or of some interest therein, in determining the amount of compensation to be paid to such person the entire value of the land shall not be taken at a greater sum than eight hundred times the amount of the fees paid into the assurance fund in respect of the land, either in the first instance or under the provisions of section 126.

(2) Where such fees or some part thereof were paid into the fund in respect of other land in addition to that for which a claim is so made without it appearang what amount was paid in respect of the particular parcel of land with reference to which the claim is made, the fees so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial contents of the whole parcel or of the various parcels in respect of which the fees were paid. R.S.O. 1897, c. 138, s. 133.

Additional payments into fund by transferee, etc.

126.—(1) Where any person taking a transfer or charge of any land coming within the provisions of the next preceding section is of the opinion that a value to be determined under such section would not furnish a fair basis for compensation in case of loss he may with the privity of the proper Master of Titles pay into Court to the credit of the assurance fund such further sum as shall with the amount previously paid into the assurance fund in respect of such land make up one-fourth of one per cent. of the value of the land at the time of making the payment, such value to be determined in the manner provided by section 123.

(2) No such additional payment shall be made except by special leave of the Master, unless the same is made within three months after the registration of the transfer or charge under which such person claims.

(3) No such payment shall affect the valuation of the land where the error which gives the right to compensation was committed before such payment was made. R.S.O. 1897, c. 138, s. 134.

(4) Where any additional payment is made under this section, the Master shall enter a memorandum of the particulars thereof in the margin of the entry of ownership, and shall in such entry show the total amount which has been paid into the fund in respect of such land. R.S.O. 1897, c. 138, s. 135. Entry to be made of additional payment.

127.—(1) No person shall be entitled to recover out of the assurance fund any compensation where No claim to compensation from assurance fund.

(*a*) The claim is founded upon a right existing at the time of the first registration of the land and the state of the title of the land at that time was such that the person who was first registered, or the person on whose nomination or authorization such registration was made by a duly registered conveyance could have conferred, as against the claimant, a valid title to a purchaser in good faith for valuable consideration without notice of any defect in the title; and no sufficient caution had been registered and was in force when the application for first registration was made or a patent was forwarded for registration and the proper Master of Titles had not actual notice of the defect prior to the first registration; When person first registered could have conveyed good title to purchaser for value without notice. Proviso. New Zealand Act, No. 57, 1885, s. 53.

(*b*) The claimant by direction of the Master or in accordance with the practice of the office had been served with a notice of the proceedings being had in the office, whether such proceedings were prior or subsequent to first registration and failed to appear in accordance with the requirements of the notice; or if the Master had adjudicated against him and he had failed to prosecute successfully an appeal against the Master's decision; Where claimant had notice of registration proceedings.

(*c*) The claimant has caused or substantially contributed to the loss by his act, neglect or default and the omission to register a sufficient caution, notice, inhibition or restriction to protect a mortgage by deposit or other equitable interest or any unregistered right, or other equitable interest or any unregistered interest or equity created under section 68 or otherwise shall be deemed neglect within the meaning of this clause. Where claimant's negligence has caused loss. Imp. Act, 60-6 V., c. 65, s. 7, subs. 3.

(2) In this section "Claimant" shall include the person actually making the claim and any person through whom

he claims who he alleges was wrongfully deprived of land or of some estate or interest therein. 3 Edw. VII., c. 12, s. 1.

128.—(1) The Treasurer of Ontario on receipt of the money paid to him under subsection 5 of section 123 shall issue to the Accountant of the Supreme Court in trust, Ontario Government Stock to an amount equal to the sum so received, and such stock shall represent the assurance fund and be available for the same purposes.

(2) The stock shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer as the Lieutenant-Governor in Council may deem advisable, and shall bear interest at the rate of two and one-half per centum per annum.

(3) The stock, together with the interest thereon shall be charged upon and paid out of the Consolidated Revenue Fund.

(4) All sums which become payable out of the assurance fund shall to the extent, but not exceeding the amount, of such fund be paid by the Treasurer of Ontario to the persons entitled thereto, out of the Consolidated Revenue Fund, on the production of an order of the Court or a Judge authorizing or directing the payment to be made or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly. 10 Edw. VII., c. 61, s. 1, *part*.

WITHDRAWING LAND FROM THE REGISTRY.

Application to withdraw registered land.

129.—(1) Where, after land has been registered, special circumstances appear, or subsequently arise, which make it inexpedient that the land should continue under this Act, the owner may apply in the prescribed manner to the proper Master of Titles for the withdrawal of the land from the Act.

Certificate by Master.

(2) If the owner proves before the Master that all persons interested in the land proposed to be withdrawn, consent to its withdrawal, and satisfies the Master that special circumstances exist which render the withdrawal of such land or a part thereof expedient, the Master may issue his certificate describing the land or such part thereof as the consent covers and as the Master deems proper, in such a manner that the certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued this Act shall

cease to apply to the land described therein, and the land shall thereafter be subject to the ordinary laws relating to real estate and to the registry laws.

(3) The certificate of a Local Master under this section shall not be valid unless approved and countersigned by the Inspector. Application of section.

(4) Upon the production of the certificate to the registrar of deeds and payment of a fee of $1, the same shall be duly registered. R.S.O. 1897, c. 138, s. 136. Registration of certificate.

(5) This section shall not apply to land registered under section 159.

ADMINISTRATION AND MISCELLANEOUS.

Office of Land Registry.

130. There shall be a seal for every office of Land Titles. R.S.O. 1897, c. 138, s. 137. Seal of office. Imp. 38 & 39 V., c. 87, s. 107.

131. The Inspector shall prepare and cause to be printed and promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. R.S.O. 1897, c. 138, s. 138. Master to frame and promulgate form. Imp. 38 & 39 V., c. 108.

132. The proper Master of Titles, or any officer of the office of Land Titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath for any of the purposes of this Act. R.S.O. 1897, c. 138, s. 139. Administration of oaths. 10 Edw. VII., c. 60.

133.—(1) The proper Master of Titles in any application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the Court, who may administer the requisite oath to any person whose deposition or cross-examination the Master has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the Master may be taken down by a sworn shorthand writer if the examining party so desires. R.S.O. 1897, c. 138, s. 140. Depositions taken before special examiners may be used before Master of Titles.

(2) The Master may name the witnesses to be examined or he may request the examiner to take the examination of all witnesses produced by any named person or persons or of any class of witnesses. *New*.

Power of Master to summon witnesses. Imp. 38 & 39 V., c. 109.

134.—(1) The proper Master of Titles, by summons under the seal of his office, may require the attendance of all such persons as he may think fit in any application made to him and may in the summons require any person to produce for inspection any document, deed, instrument or evidence of title to the production of which the applicant or any trustee for him is entitled. R.S.O. 1897, c. 138, s. 141 (1); 2 Edw. VII., c. 19, s. 3.

(2) He may also, by a like summons, require any person having the custody of any map, plan, or book made or kept in pursuance of any Statute to produce such map, plan, or book for his inspection.

(3) He may examine upon oath any person appearing before him; and he may allow to every person summoned by him reasonable charges for his attendance.

(4) Any charges allowed by the Master under this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

(5) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court; and thereupon such person may be punished by the Court in the same manner as if the order were the order of the Court. R.S.O. 1897, c. 138, s. 141 (2-5).

Non-attendance or refusal to answer questions. Imp. 38 & 39 V., c. 87, s. 110. 10 Edw. VII., c. 37.

(6) If any person, after the delivery to him of the summons, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons or to produce such map, deed, instrument, evidence of title, plan, book, or other document or to answer upon oath or otherwise such questions as may be lawfully put to him by the Master, he shall incur a penalty not exceeding $50, recoverable under *The Ontario Summary Convictions Act.*

(7) No person shall be required to attend in obedience to any summons, or to produce documents unless the fees and allowances for his attendance in accordance with the tariff of the Court are paid or tendered to him. R.S.O. 1897, c. 138, s. 142.

Certificates as to taxes. 4 Edw. VII., c. 23.

135. The treasurer of the proper municipality upon payment of the fee prescribed by section 130 of *The Assessment Act,* shall furnish to any person requiring the same in respect of land registered or with reference to which an application for registration is pending, a certificate of payment of taxes, charges, rates and assessments, in the prescribed

form, or as nearly corresponding thereto as the information given by his books of office will allow, and the certificate shall be binding upon the municipality. R.S.O. 1897, c. 138, s. 143.

Appointment of deputy of Master.

136.—(1) In case of the illness or absence of the Master of Titles or of a Local Master, or for any other cause, the Lieutenant-Governor in Council may appoint a person to act as the Deputy *pro tempore* of the Master or Local Master, and such Deputy, while so acting, shall have all the powers of the Master or Local Master for whom he is appointed Deputy.

(2) A person may be appointed under this section who shall have power to act from time to time. R.S.O. 1897, c. 138, s. 144. *Amended.*

(3) In case of the death of a Master the deputy may act until his authority is revoked or a Master is appointed and assumes the duties of his office. *New.*

Right to Inspect Registry.

Right to inspect documents. Imp. 38 & 39 V., c. 87, s. 104.

137. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any person registered as owner of any land or charge, and any person authorized by any such owner, or by an order of the Court, or by general rule, but no other person, may inspect and make copies of and extracts from any document in the custody of the proper Master of Titles relating to such land or charge. R.S.O. 1897, c. 138, s. 150.

Rules.

Power to make general rules. Rev. Stat. c. 51. Imp. 38 & 39 V., c. 87, s. 111.

138. The Lieutenant-Governor in Council, or the Judges of the Supreme Court, under the authority of sections 122 and 125 of *The Judicature Act,* which are to be read as applying to this Act, may make General Rules in respect of the following matters,

(*a*) The mode in which the register is to be made and kept;

(*b*) The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;

(*c*) The custody of any instruments coming into an office of land titles, with power to direct the destruction of any of them where they have become altogether superseded by entries on the register or have ceased to have any effect;

(*d*) The duties which are to be performed by the Master of Titles, the Local Masters and other officers employed; and what acts of the Master may be done by other officers;

(*e*) The costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, percentage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient;

(*f*) The taxation of such costs and the persons by whom such costs are to be paid;

(*g*) Any matter by this Act directed or authorized to be prescribed;

(*h*) Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be deemed expedient to make rules for the purpose of carrying this Act into execution. R.S.O. 1897, c. 138, s. 152.

Rules respecting fees. Imp. 38 & 39 V., c. 87, s. 112.

(2) Rules may be made in like manner with respect to the amount of fees payable under this Act, and regard may be had to the following matters: R.S.O. 1897, c. 138, s. 152.

(*a*) In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land, as determined by the amount of purchase money; or to the value of it, to be ascertained in such manner as may be prescribed;

(*b*) In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge. R.S.O. 1897, c. 138, s. 154.

Fees.

139.—(1) Subject to the rules, the fees payable in respect of such business as is analogous to the business under *The*

Registry Act, shall be the same as the fees payable to the Registrar under that Act; and all other fees and costs, whether in respect of business done by the Master of Titles, Local Master of Titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in like proceedings in the High Court. 10 Edw. VII., c. 60.

(2) The stamps for all fees payable on a certificate of ownership or a certificate of charge shall be affixed to the registered transfer or charge and not to the certificate, and all stamps payable in respect of registration shall be affixed to the instruments registered and not to the entry on the register. R.S.O. 1897, c. 138, s. 155. Stamps to be affixed to registered transfer or charge.

Appeals.

140. Except as provided by section 110, an appeal shall lie from any act, order, or decision of the Master of Titles or a Local Master of Titles under this Act to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 157. Appeals from Master.

141. Any person affected by an order made under this Act by the High Court may appeal therefrom to the Court of Appeal within the prescribed time, and subject to the rules in like manner as in the case of an appeal from a Divisional Court of the High Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 158. Appeal from High Court. Imp. 38 & 39 V., c. 87, s. 117.

Errors in Proceedings.

142. No application, order, affidavit, certificate, registration or other proceedings shall be invalid by reason of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 138, s. 159. Proceedings not void for want of form.

Oath of Office and Security by Officers.

143.—(1) The Master of Titles, before he enters upon the duties of his office, shall take and subscribe before a Judge of the Supreme Court the oath of office in the form following:— Oath of office.

I, *A.B.*, do solemnly swear that I will faithfully, and to the best of my ability, perform the duties of the office of Master of Titles.

R.S.O. 1897, c. 138, s. 145.

(2) Every Local Master of Titles and every Deputy of the Master of Titles or of a Local Master, before he enters

upon the duties of his office, shall take and subscribe an oath of office similar to that required to be taken by the Master of Titles. *New.*

(3) In the case of a Local Master or of a Deputy of a Local Master, the oath may be taken before a Judge of the County or District Court. *New.*

(4) The oaths of office shall be transmitted to the Provincial Secretary. *New.*

Bond of Master.

144. Before the Master of Titles or a Local Master of Titles enters upon the duties of his office, he shall furnish security in accordance with the provisions of *The Public Officers' Act.* R.S.O. 1897, c. 138, s. 146.

9 Edw. VII., c. 5.

Masters or Officers not to Act as Agents for Investors.

Master, etc., not to act as agent, etc. of investors.

145.—(1) No Master of Titles, officer or clerk appointed under this Act, shall, directly or indirectly, act as the agent of any corporation, society, company, or person investing money and taking securities on land, or advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer or carry on or transact within the office any business or occupation other than his duties as such Master, officer or clerk, or as holder of some other office under the Government of Ontario.

(2) This section shall apply to every Local Master, but as applied to him, and the officers and clerks in his office, the word "land" shall mean land within the county, city, town or district for which he is Local Master. R.S.O. 1897, c. 138, s. 149.

EXTENSION OF ACT TO OTHER LOCALITIES AND EXPENSES.

Adoption of Act by municipality.

146.—(1) The municipal council of a county, or of a city or town separated from the county for municipal purposes, may pass a by-law declaring it expedient that the provisions of this Act be extended to the county, city or town.

County of York, City of Toronto and other places where Act in force to supply accommodation, etc.

(2) The municipal corporations of the County of York and City of Toronto and of any county, city or town which has passed or shall pass a by-law under subsection 1, shall provide proper fire-proof and other accommodation for an office of Land Titles; and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salary of the Master of Titles of the locality, and all necessary and pro-

per books, stationery, furniture, and lighting, cleaning and heating of the office, and attendance, and other matters and things incident to the proper conduct of the business of the office.

(3) Where this Act is extended to a county which includes a city or town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act, in such proportions as may be determined by arbitration under *The Municipal Act,* in case the councils interested do not agree in respect thereto. R.S.O. 1897, c. 138, s. 160. 3 Edw. VII., c. 19.

Proclamation extending Act to municipality.

(4) Where such a by-law has been passed, and proper accommodation has been provided either in connection with the registry office or at some other convenient place, to the satisfaction of the Inspector, and approved by the Lieutenant-Governor in Council, the Lieutenant-Governor may, by his proclamation, extend the operation of this Act to such county, city, or town, from a day to be named in the proclamation.

(5) The fact of the conditions precedent to the issue of such proclamation having been performed shall be conclusively established by the issue of the proclamation. R.S.O. 1897, c. 138, s. 161.

Extension of application of Act on petition of owners.

147.—(1) Where not less than twenty ratepayers of any county in which is situate a city or a town to which the provisions of this Act have been extended, who are owners of land situate in such county of the aggregate assessed value of $400,000, petition the Lieutenant-Governor in Council for the issue of a proclamation extending the provisions of this Act to the county, and the Lieutenant-Governor in Council declares that it is expedient that the same should be so extended, the provisions of section 146 shall apply to such county as fully as they would have been applicable had a by-law been passed by the council of the county.

(2) In the cases provided for by subsection 1, the Local Master shall not be entitled to be paid a salary, unless the county council passes a resolution for the payment to him of a salary to be provided by the county, but such Local Master shall be entitled to retain for his own use the fees collected upon proceedings in his office.

(3) All costs and expenses incurred in introducing the Land Titles system into the county, or incurred during one year thereafter in connection therewith, shall be paid by the petitioners.

(4) The owners of land which is assessed as land of non-residents shall be deemed ratepayers within the meaning of this section. 7 Edw. VII. c. 30, s. 19.

Surplus fees under 10 Edw. VII., c. 60, to be applied in defraying expenses of Land Titles Office.

148.—Where this Act applies to a county, city or town entitled to receive money under sections 101 and 102 of *The Registry Act,* the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the Master and other expenses of the office, the money payable either directly or indirectly, to the county, city, or town under that Act, and the Treasurer shall pay the balance to the county, city or town; and if the amount so paid to the Treasurer is not sufficient, the residue, or if nothing is payable by the registrar, the whole of such salary and expenses shall be made good to the Province by the corporation of the county, city or town. R.S.O. 1897, c. 138, s. 162. *Amended.*

LOCAL MASTERS OF TITLES.

Local Masters of Titles *ex-officio.* 10 Edw. VII., c. 59.

149.—(1) Where at the time of the issue of a proclamation under section 146 there is a Referee of Titles under *The Quieting Titles' Act,* residing in the locality, such referee shall *ex-officio* be the first Local Master of Titles therefor, unless he practises as a barrister or solicitor, or is a Judge of the County Court, and he shall hold the office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1897, c. 138, s. 163.

Appointment of Local Masters.

(2) Subject to the provisions of subsection 1, the Lieutenant-Governor in Council may appoint a Master of Titles for any locality in which this Act is in force, to be styled " The Local Master of Titles " for the county, city, town or district, as the case may be, who shall hold office during pleasure.

Qualification.

(3) The person appointed may, in the discretion of the Lieutenant-Governor in Council, be a Judge of a County or District Court, a barrister or solicitor, whether practising or not, or a registrar. R.S.O. 1897, c. 138, s. 164 (1, 2).

Salary.

(4) The Local Master of Titles shall be paid by salary or fees for his services in that capacity, such salary to be fixed by the Lieutenant-Governor in Council from time to time, with reference to the amount or probable amount of the business, on the report of the Inspector.

Rev. Stat. c. 51.

(5) The Order in Council shall be laid before the Assembly, as provided in respect of Orders in Council under section 187 of *The Judicature Act.* R.S.O. 1897, c. 138, s. 164 (3); 2 Edw. VII. c. 19, s. 4.

(6) The Lieutenant-Governor in Council may commute the fees payable to a Registrar of Deeds or Local Master of Titles, in any county or district whether both offices are held by one officer or otherwise for a fixed sum each year, provided that such sum shall not exceed the income which such Registrar or Local Master would have derived from fees during such year, and the fees so commuted shall on or before the 15th day of January in each year be paid over to the Treasurer of the Province in the case of a district for the use of the Province, and in the case of a county or city shall be subject to such division between such county or city and the Province as the Lieutenant-Governor in Council may direct. Commutation of fees of Registrar or Local Master of Titles.

(7) Where such Registrar or Local Master holds office for part of a year, he or his executors or administrators shall be entitled to the just proportion of such commuted fixed sum. 10 Edw. VII. c. 26, s. 36.

DUTIES AND POWERS OF LOCAL MASTERS.

150. Except where otherwise provided by this Act, every Local Master of Titles, in respect to land situate within the territory for which he is appointed, shall have all the authority of and perform all the duties which, in the County of York, are performed by the Master of Titles, subject to appeal in the same manner. R.S.O. 1897, c. 138, s. 165. Master's authority and duties.

First Registration.

151.—(1) If, upon an application for first registration, the Local Master of Titles finds that the applicant, or his nominee, is entitled to be registered, he shall sign a memorandum to that effect at the foot of the application, and shall transmit the same to the Inspector, with the deeds, evidence, and other papers before him, and a draft of the entry of ownership proposed to be made. Local Master to transmit title deeds, etc., to Inspector.

(2) If the Inspector concurs in the opinion of the Local Master, he shall approve thereof and shall return the papers transmitted to him, and the Local Master may thereupon register the applicant, or his nominee, as owner. Proceedings where Inspector concurs in Master's finding.

(3) If the Inspector does not concur in the opinion of the Local Master, he shall communicate his opinion to the Local Master and shall cause such action to be taken as he deems expedient, and if his objections are not removed by Proceedings where Inspector does not concur.

explanations or additional evidence, the applicant or his nominee shall not be registered, unless the Court on appeal, or on a case stated for its opinion, otherwise directs.

Stay of proceedings in case appeal desired.

(4) If there is a contest upon the decision of the Inspector concurring in the Local Master's opinion, registration shall be delayed for ten days to enable anyone who so desires to appeal. R.S.O. 1897, c. 138, s. 166.

Applications for first registration in districts.

152.—(1) Until an Inspector is appointed, applications for first registration in the Provisional Judical Districts not coming within sections 159, 160 and 162 shall be made to the Master of Titles and not to the Local Master for the district, and upon the Master of Titles finding that an applicant is entitled to be registered he shall issue his certificate to that effect to the Local Master who shall thereupon register the land in accordance with the terms of such certificate. 3 Edw. VII. c. 12, s. 7; 7 Edw. VII. c. 30, s. 23. *Amended.*

153. Sections 151 and 152 shall not apply to applications coming within sections 159, 160 and 162, or to applications for a possessory title, or for the registration of leasehold land where the freehold or other estate out of which the lease is derived is registered land, or where a declaration of the title of the lessor to grant the lease is not required. 7 Edw. VII. c. 30, s. 23. *Amended.*

Duty of registrar of district when required to forward documents of title to Master.

154.—(1) Where an application is made under section 152 the Master of Titles may request the registrar of the registry division in which the land lies to transmit by registered post, or by express, any instrument appearing on the abstract, or required in connection with the application, which the Master desires to examine.

(2) The registrar shall comply with such request and shall, with such documents, send a list of all the documents transmitted and shall retain a copy of the list.

(3) The Master shall return the documents, as soon as practicable, by registered post or by express, sending therewith to the registrar a list of all the documents so returned and keeping a copy of the list.

(4) The registrar, in addition to his usual fees for the production of a document, shall be entitled to an additional fee of 10 cents for each document transmitted as compensation for his trouble in respect of such transmission, the preparation of the list and returning the documents to their proper files. 3 Edw. VII. c. 12, s. 8. *Amended.*

Subsequent Registration.

155. If on the application for the registration of an instrument after a first registration or for the registration of a transmission, the Local Master of Titles is unable to come to a clear conclusion as to the action which he should take, he shall delay making the required entry until he has stated the facts to the Inspector for his opinion and in submitting the case the Local Master shall state his own view and his reasons therefor. R.S.O. 1897, c. 138, s. 167. Submission of case to Inspector where Master in doubt.

INSPECTOR OF OFFICES OF LAND TITLES.

156.—(1) The Lieutenant-Governor in Council may appoint an officer, to be called "The Inspector of Land Titles' Offices." R.S.O. 1897, c. 138, s. 168 (1); 7 Edw. VII. c. 30, s. 20. Appointment of Inspector.

(2) The Inspector shall, subject to the rules, have the like powers and duties as an Inspector under *The Quieting Titles' Act*, and as an Inspector under *The Registry Act*, respectively, and such other duties as may be required of him by the rules, or as he may be required by the Lieutenant-Governor in Council to perform. Duties. 10 Edw. VII., cc. 59 and 60.

(3) The salary of the Inspector, his travelling expenses, and all expenses of and incidental to his office, shall be paid by the Province, and shall be repaid to the Treasurer of Ontario by the corporations of the localities in which this Act is from time to time in operation, in such proportions as after a report from the Inspector the Lieutenant-Governor in Council may determine. R.S.O. 1897, c. 138, s. 168. *Part.* Salary.

157. Until an Inspector is appointed, the duties of the Inspector shall be performed by the Master of Titles, or by some other person authorized by the Lieutenant-Governor in Council, and the expenses of and incidental thereto shall, in like manner as is hereinbefore provided be repaid to the Treasurer. R.S.O. 1897, c. 138, s. 168. *Part.* Performance of duties until Inspector appointed.

158. In all matters decided by the Inspector which are of like character as matters over which the Master of Titles has jurisdiction in the County of York, an appeal shall lie from any act, order or decision of the Inspector to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 168. *Part.* Appeal from Inspector.

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

Letters Patent or Order-in-Council granting lands in certain districts, registration of.

159.—(1) Where any land situate in a Provisional Judicial District is granted by letters patent or by order of the Lieutenant-Governor in Council, the letters patent or a certified copy of the Order in Council shall be forwarded to the Local Master of Titles of the District for the purpose of the grantee being entered as the first registered owner of the land, with any necessary qualifications.

(2) Subsection 1 shall not apply to land covered with the waters of Lake Huron adjacent to the Great Manitoulin Island, Cockburn Island or Fitzwilliam Island, in the District of Manitoulin, or adjacent to any island which, in whole or in part, lies between headland and headland around such three Islands. 6 Edw. VII. c. 19, s. 20.

(3) It shall not be necessary to issue a notice in respect of a caution or adverse claim which has been lodged, if by the certificate of the Minister or Deputy Minister of Lands, Forests and Mines it appears that the claim in respect of which such caution or adverse claim was lodged was considered by the Minister and disposed of before the issue of the patent; and if before the receipt of such a certificate any proceedings have been taken by a Local Master in respect of such caution or adverse claim, he shall thereupon discontinue the same, and disallow any objection or claim founded thereon, and make such order as to costs as he deems just.

(4) Where there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector before registering the patentee as owner, and shall otherwise proceed as provided in section 151.

(5) Where the cautioner consents to the registration of the patentee the Local Master need not issue any notice on account of such caution.

Patents demising lands for term of years declared within this section.

(6) Letters Patent from the Crown demising land, or mining rights for a term of years, or for any greater estate, granted on or after the 31st day of December, 1887, shall be deemed to have been and to be within the provisions of this section. R.S.O. 1897, c. 138, s. 169 (3-6); 62 V. (1) c. 2, s. 1. *Amended.*

Registration of Dominion patentees.

160. Where land situate in a Provisional Judicial District has been patented by the Government of Canada the Local Master of Titles shall have authority to register the patentee

as owner of such land and may do so without submitting his finding upon the application to the Inspector for his concurrence. 6 Edw. VII. c. 19, s. 20 (3).

Notice by Master to sheriff.

161.—(1) Upon an entry of ownership being made, the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the land lies of the entry of the patentee as owner.

(2) The notice shall be sent by registered post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution.

(3) The sheriff, upon receipt of the notice, shall forthwith transmit to the Local Master a copy of any execution in his hands affecting the land of the patentee, and if within the fourteen days no copy of an execution against the land of the patentee is received from the sheriff, the Local Master may assume that the land is not subject to any execution and may enter subsequent dealings with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee.

Entry where claim for taxes or copy of execution received.

(4) Where the Local Master receives from the sheriff a copy of an execution affecting the land, an entry thereof shall be made against the land and all dealings with it shall be subject to such execution. R.S.O. 1897, c. 138, s. 172 (1-4); 7 Edw. VII. c. 30, s. 22.

Registration of transferee of patentee.

162.—(1) Where a patent for land is forwarded to a Local Master of Titles under section 159, and it is made to appear to him that the patentee since the date of the patent has transferred the land to some other person, the transferee, or in case of a further transfer or transfers the ultimate tansferee of the land, shall be entered as the first registered owner, and shall be described as the transferee of the patentee or otherwise according to the fact. R.S.O. 1897, c. 138, s. 170.

(2) Before entering a transferee as first registered owner, the Local Master shall require evidence to be produced shewing that there is no execution affecting the land. *New.*

Fees payable to Local Master.

163. Where notices or other proceedings are necessary, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings, and where notices are

not necessary the Local Master shall be entitled to charge his actual disbursements. R.S.O. 1897, c. 138, s. 172 (5, 6). *Amended.*

Repeal.

164. The following Acts and parts of Acts are repealed: chapter 138 of Revised Statutes of Ontario, 1897, chapter 16 of the Acts passed in the 1st year, chapter 19 of the Acts passed in the 2nd year, chapter 12 of the Acts passed in the 3rd year, section 20 of chapter 19 of the Acts passed in the 6th year, chapter 30 of the Acts passed in the 7th year, chapter 38 of the Acts passed in the 8th year, section 15 of chapter 26 of the Acts passed in the 9th year, section 36 of chapter 26, and chapter 61 of the Acts passed in the 10th year of the reign of His late Majesty King Edward VII.

165. This Act shall come into force on the day of , 1911.

No. 96.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Simplify Titles and to Facilitate the Transfer of Land.

First Reading, 25th January, 1911.
Second Reading, 31st January, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 96. 1911.

BILL

An Act to simplify Titles and to facilitate the Transfer of Land.

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APPLICATION OF ACT, ETC., s. 2.
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REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS, ss. 159-163.
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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

Short title.

1. This Act may be cited as *The Land Titles Act*. R.S.O. 1897, s. 138, s. 1.

Application of Act.

2. This Act shall, subject to section 146, apply to the County of York, including the City of Toronto, the County of Elgin, including the City of St. Thomas, the County of Ontario, the City of Ottawa and the County of Carleton, and to Provisional Judicial Districts only, and the Land Registries heretofore established for the said counties and districts are hereby continued. R.S.O. 1897, c. 138, s. 2, and Orders in Council of 27th July, 1899, and 4th December, 1907.

Interpretation.

3. In this Act

Court.

(*a*) "Court" shall mean the High Court.

General Rules.

(*b*) "General Rules" or "Rules" shall mean the Rules made in pursuance of this Act or of any Act repealed by it.

Inspector.

(*c*) "Inspector" shall mean Inspector of Land Titles Offices, and shall include a person acting as Inspector of Land Titles Offices under the authority conferred by this Act.

Owner.

(*d*) "Owner" shall mean owner in fee simple;

Prescribed.

(*e*) "Prescribed" shall mean prescribed by this Act or by any general rules made in pursuance of this Act.

Proper Master of Titles.

(*f*) "Proper Master of Titles" shall mean the Master of Titles or Local Master in whose office the land affected or

intended to be affected by any proceeding, instrument or document is or may be registered

(*g*) "Registered" shall mean registered under this Act. Registered.

(*h*) "Sworn Valuator" shall mean a person appointed with the approval of the Lieutenant-Governor in Council, to value land under this Act. R.S.O. 1897, c. 138, s. 3. Sworn Valuator.

4 Any jurisdiction of the court under this Act may be exercised by a judge of the court whether sitting in court or in chambers. R.S.O. 1897, c. 138, s. 3, *part*. Judge may act in Court or Chambers.

PART I.

ENTRY OF LAND ON REGISTER OF TITLE.

5. The Land Registry for the County of York shall be conducted by an officer to be called the Master of Titles, who shall be a barrister of not less than ten years' standing at the Bar of Ontario, and shall be appointed by the Lieutenant-Governor in Council by commission under the Great Seal R.S.O. 1897, c. 138, s. 4. Land registry for County of York to be conducted by Master of Titles. Imp. 38 & 39 V., c. 87, ss. 5, 106.

6.—(1) Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether or not subject to incumbrances, or any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether or not subject to incumbrances, may apply to the proper Master of Titles to be registered under this Act, or to have registered in his stead any nominee as owner of such land, with an Absolute, Qualified or Possessory title, as the case may be. R.S.O. 1897, c. 138, s. 5. Application for registration with absolute or possessory title. Imp. 38 & 39 V., c. 87 s. 5.

(2) Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether or not subject to incumbrances, may also apply if the vendor consents to the application. R.S.O. 1897, c. 138, s. 6. Application by purchaser. Imp. 38 & 39 V. c. 87, s. 5.

(3) The Attorney-General for Canada, or the Attorney-General for Ontario, may apply in like manner in respect to the title of the Crown to any land; and the practice and procedure upon the application shall be the same as in ordinary cases. R.S.O. 1897, c. 138, s. 7. Application by Crown. Imp. 38 & 39 V. c. 87, s. 65.

Trustees and Mortgagees.

Trustees, etc., may sell by medium of registry, or may be themselves registered.

Imp. 38 & 39 V. c. 87, s. 68.

7.—(1) Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorize the purchaser to make an application to be registered as owner with any title with which an owner is authorized to be registered, and may consent to the performance of the contract being conditional on his being so registered; or any of such persons, except a mortgagee, may himself apply to be registered as such owner with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale.

(2) A mortgagee having a power of selling land, may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any such title.

(3) The amount of all costs, charges, and expenses properly incurred by such person, in or about the application, shall be ascertained and declared by the proper Master of Titles, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in respect thereof. R.S.O. 1897, c. 138, s. 8.

Part Owners.

Registration of part owners.

Imp. 38 & 39 V. c. 87, s. 69.

8.—(1) Any two or more persons entitled concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land, may, subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land, apply to the proper Master of Titles to be registered as joint owners, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that an individual owner may be registered. R.S.O. 1897, c. 138, s. 9.

Entry on registration of part owners.

(2) Where several persons are so registered as owners, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled, and such entry may be made either upon first registration or subse-

quently in case the estates, rights or interests so arise. R.S.O. 1897, c. 138, s. 10.

(3) Persons entitled to several estates, as mentioned in subsection 1, or owners who are tenants in common or joint tenants, shall be entitled to take out one certificate in respect of the whole estate, or each person may, when the extent of his interest is defined, take out a certificate in respect of his own estate; but when a certificate for the whole is outstanding no separate certificate shall be issued till the outstanding certificate is returned and cancelled. R.S.O. 1897, c. 138, s. 11. What certificate part owners may take out.

Absolute Titles.

9. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple unless and until the title is approved by the proper Master of Titles. R.S.O. 1897, c. 138, s. 12. Evidence where absolute title required. Imp. 38 & 39 V. c. 87, s. 6.

10. The first registration of a person as owner of land, in this Act referred to as first registered owner, with an absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows: Estate of first registered owner with absolute title. Imp. 38 & 39 V. c. 87, s. 7.

(*a*) To the incumbrances, if any, entered on the register;

(*b*) To such liabilities, rights and interests, if any, as are declared for the purposes of this Act not to be incumbrances, unless the contrary is expressed on the register;

(*c*) Where such first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, to any unregistered estates, rights, interests, or equities to which such persons may be entitled;

but free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 13.

Possessory Titles.

11. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple Evidence where possessory title required.

Imp. 38 & 39 V. c. 87, s. 6.

on giving such evidence of title, and serving such notices, if any, as may be prescribed. R.S.O. 1897, c. 138, s. 14.

Estate of first registered owner with possessory title.

Imp. 38 & 39 V. c. 87, s. 8.

12. The registration of a person as first registered owner with a possessory title only, shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered owner, and subsisting or capable of arising at the time of registration of such owner, but shall otherwise have the same effect as registration of a person with an absolute title. R.S.O. 1897, c. 138, s. 15.

Qualified Titles.

A qualified title may be registered.

Imp. 38 & 39 V. c. 87, s. 9.

13.—(1) Where on the examination of the title it appears to the proper Master of Titles that it can be established only for a limited period, or subject to certain reservations, the Master, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

(2) A title registered subject to such excepted estate, right, or interest shall be called a qualified title.

Estate of owner registered with a qualified title.

(3) The registration of a person as first registered owner with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right or interest appearing by the register to be excepted.

Notice of easement. Imp. 38 & 39 V. c. 87, s. 18, sub-s. d.

(4) Where the existence of any easement is proved the Master may, if he thinks fit, enter notice thereof on the register.

Statement of appurtenant easement on certificate, etc.

(5) Where title is shewn to any easement appurtenant to the land being registered, the same may be stated in the entry and certificate of ownership. R.S.O. 1897, c. 138, s. 16.

Certificate of Ownership.

Certificate of ownership given on registration.

Imp. 38 & 39 V. c. 87, s. 10.

14. On the entry of the name of the first registered owner of freehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a Certificate, in the prescribed form, in this Act called a Certificate of Ownership, which shall state whether the title of the owner therein mentioned is absolute, qualified, or possessory. R.S.O. 1897, c. 138, s. 17.

15.—(1) A certificate by the proper Master of Titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situate; and thereafter *The Registry Act* shall cease to apply to such land. R.S.O. 1897, c. 138, s. 18.

Registry Act not to apply to land under this Act.

10 Edw. VII c. 60.

(2) The certificate, besides describing the land, shall state the date of the first registration, the number of the parcel and the register in which the land is registered: and the Registrar shall in his Abstract Index enter the number of the parcel and the register as given in the certificate. (*New.*)

Particulars to be stated in certificate for registry office.

PART II.

LEASEHOLD LAND.

16.—(1) A separate register of leasehold land shall be kept and any of the following persons:

Register of leasehold land.

(*a*) Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which at least 21 are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the portion unexpired of the current term to at least 21 years, or to a renewal for a life or lives, whether or not subject to incumbrances;

Application for registration with or without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 11.

(*b*) Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease whether or not subject to incumbrances; and

(*c*) Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease whether or not subject to incumbrances;

may apply to the proper Master of Titles to be registered, or to have registered in his stead any nominee as owner of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held;

Proviso.

Provided that, in the case of leasehold land contracted to be bought, the vendor consents to the application.

(2) Every applicant for registration of leasehold land shall deposit with the Master the lease in respect of which

the application is made, or if such lease is proved to the satisfaction of the Master to be lost, a copy of such lease or of a counterpart thereof, verified to the satisfaction of the Master; and such lease or verified copy is in this Act referred to as the registered lease.

(3) Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered.

(4) Leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered unless and until provision is made in the prescribed manner for preventing alienation without such license, by entry in the register of a restriction to that effect, or otherwise. R.S.O. 1897, c. 138, s. 19.

(5) Section 7 shall apply to leasehold as well as to freehold land. 7 Edw. VII. c. 30, s. 2.

Evidence of title required on application.

Imp. 38 & 39 V. c. 87, s. 12.

17. An applicant or his nominee shall not be registered as owner of leasehold land unless and until the title to such land is approved by the proper Master of Titles; and if he applies to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, shall not be registered with such declaration unless and until the lessor, after an examination of his title by the Master, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 20.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 13.

18. The registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held, shall vest in such person the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges and appurtenances attached to such estate, but subject

(*a*) To all implied and express covenants, obligations and liabilities incident to such leasehold estate;

(*b*) To the incumbrances, if any, entered on the register;

(*c*) Unless the contrary is expressed on the register, to such liabilities, rights and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land; and

(*d*) Where such first registered owner is not entitled for his own benefit to the land registered, then, as between himself and any person for whom he holds or claiming under him, to any unregistered estates, rights, interests or equities to which such person may be entitled;

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 21; 7 Edw. VII. c. 30, s. 3.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 14.

19. The registration of a person as first registered owner of leasehold land without a declaration of the title of the lessor, shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall have the same effect as the registration of a person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 22.

Lessor may be declared to have a qualified title to grant lease.

Imp. 38 & 39 V. c. 87, s. 15.

20.—(1) Where on the examination of the title of a lessor by the proper Master of Titles, it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period, or subject to certain reservations, the Master may, by an entry made in the register, except from the effect of registration, any estate, right or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register; and a title of a lessor subject to such excepted estate, right, or interest shall be deemed a qualified title.

(2) The registration of a person as first registered owner of leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held, shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 23.

Office copy of lease given on registration

Imp. 38 & 39 V. c. 87, s. 17.

21. On the entry of the name of the first registered owner of leasehold land on the register, the proper Master of Titles shall, if required by the owner, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated

in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register. R.S.O. 1897, c. 138, s. 24.

PART III.

REGISTRATION, HOW EFFECTED.

Regulations as to examination of title by Master.

Imp. 38 & 39 V. c. 87, s. 17.

22. The examination of a title shall be conducted in the prescribed manner, subject to the following provisions:

(*a*) Due notice shall be given where the giving of such notice is prescribed; and sufficient opportunity shall be afforded to any person desirous of objecting to come in and state his objections to the proper Master of Titles;

(*b*) The Master shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions;

(*c*) If the Master, upon the examination of any title, is of opinion that it is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of it or may require the applicant to apply to the Court, upon a statement signed by the Master, for its sanction to the registration;

10 Edw. VII. c. 58, s. 8.

(*d*) It shall not be necessary to produce any evidence which, by *The Vendors and Purchaser's Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents, or instruments, unless the Master otherwise directs;

(*e*) The Master may receive and act upon any evidence which is received in court on a question of title, or any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of conveyancers, if the same satisfies him of the truth of the facts intended to be made out thereby;

(*f*) The Master may refer to and act upon not only the evidence adduced before him in the proceeding in which such evidence is adduced, but also any evidence adduced before him in any other proceeding wherein the facts to which such evidence relates were or are in question. R.S.O. 1897, c. 138, s. 25. *Amended.*

Employment of Counsel for examinations of titles.

23. The Lieutenant-Governor in Council may name one or more barristers to whom the Master of Titles may refer the examination of the title, in whole or in part, of any land in respect of which an application is made, and the Master may act upon the opinion of such referee. 7 Edw. VII. c. 30, s. 1.

Imperial Land Transfer Rules of 1903, Nos. 36 and 313.

Liability of registered land to easements and certain other rights.

24.—(1) All registered land, unless the contrary is expressed on the register, shall be subject to such of the following liabilities, rights, and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed incumbrances within the meaning of this Act;

Imp. 38 & 39 V. c. 87, s. 18.

Land to be registered subject to taxes.

(*a*) Provincial taxes and succession duty and municipal taxes, charges, rates or assessments, and school or water rates;

(*b*) Any right of way, water-course, and right of water, and other easements;

(*c*) Any title or lien which, by possession or improvements the owner or person interested in any adjoining land has acquired to or in respect of the registered land;

(*d*) Any lease or agreement for a lease, for a period yet to run which does not exceed three years, where there is actual occupation under it;

(*e*) Any right of the wife or husband of the person registered as owner to dower or curtesy, as the case may be, in case of surviving such owner;

(*f*) A mechanic's lien where the time limited for the registration thereof has not expired;

(*g*) Any right of expropriation, access or user conferred by Statute; R.S.O. 1897, c. 138, s. 26 (1); 3 Edw. VII. c. 12, s. 2; 7 Edw. VII. c. 30, s. 4. *Amended.*

(*h*) Any public highway.

(2) If the applicant desires the certificate to declare the title to be free from the first five of such particulars, or any of them, his application shall so state, and the investigation shall proceed accordingly. R.S.O. 1897, c. 138, s. 26 (2).

(3) Where the applicant desires that the land shall be registered free from any public highway, a notice so stating shall be published once a week for two successive weeks in a newspaper published in the municipality in which the land lies, or where there is no such newspaper in one published in a neighbouring municipality and the notice shall also be served upon the Attorney-General and upon the head or the Clerk of the council of the municipality in which the land lies.

(4) If the Attorney-General or the Corporation of the municipality or any person objects to the land being so registered the Attorney-General or such corporation or person may in his objection require that the question of the existence of the highway be tried in the High Court, and in that case the Master shall postpone his finding upon that part of the application until the question is finally determined and shall give such directions as he may deem proper in order that an early adjudication thereon may be had.

(5) Notwithstanding that the Attorney-General or the corporation or person objecting has not required the question to be tried in the High Court, the Master of his own motion or upon the application of either party may direct that an action be brought or an issue be tried in the High Court for the determination of the question on such terms and conditions as to costs and otherwise as he may deem just.

(6) The Master pending the final determination of the question may register the applicant as owner, subject to any public highway and upon the final determination of the question if it is determined in favour of the applicant the entry and certificate of ownership shall be varied in accordance therewith.

(7) The description of the land in the certificate of ownership shall not, as against adjoining owners, be conclusive as to the boundaries or extent thereof. R.S.O. 1897, c. 138, s. 26 (1). *Part, amended.*

Effect of registration of land upon timber licenses.

25. Where a license under *The Crown Timber Act*, or any Statute for which that Act is substituted, has been or shall be granted, and the land is registered under this Act the same shall be deemed to have been, and to be subject

to the rights of the licensee or his assigns for the current license year under the license, and to the rights of His Majesty in the pine trees under *The Free Grants and Homesteads Act,* or any Statute for which that Act is substituted, without the fact of such land being so subject being expressed in the entry in the register, or in the certificate of ownership. R.S.O. 1897, c. 138, s. 27. Rev. Stat. c. 32. Rev. Stat. c. 29.

Mortgages existing at First Registration.

26.—(1) Where land is registered subject to mortgages existing thereon at the time of the first registration the mortgages shall be noted in the register in the same order as they are registered in the registry office if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are noted. Lands subject to mortgage at time of registration.

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall, subject to sections 10 to 13 and 42 to 45, be decided under the registry law, as if the registrations in the Office of Land Titles had been made under *The Registry Act.* R.S.O. 1897, c. 138, s. 29. 10 Edw. VII., c. 60.

Determination of Incumbrances or Leases existing at First Registration.

27.—(1) Where upon the first registration of land, notice of any incumbrance affecting such land has been entered on the register, the proper Master of Titles, on proof to his satisfaction of the discharge of such incumbrance shall note in the prescribed manner on the register, by cancelling the original entry or otherwise, the cessation of such incumbrance and thereupon the incumbrance shall cease. Complete or partial discharge of incumbrance, Imp. 38 & 39 V., c. 87, s. 19.

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land or the registered assignee thereof or of the personal representative of such mortgagee or assignee authorizing or certifying the discharge of the whole or any part of the land therefrom or the discharge of the whole or any part of the money thereby secured, the Master may note on the register the discharge of such land from the mortgage

or the discharge of such part of the money, and thereupon as to the land or money discharged, the incumbrance shall cease.

(3) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. R.S.O. 1897, c. 138, s. 30; 7 Edw. VII., c. 30, s. 5.

Determination of lease.

Imp. 38 & 39 V., c. 87, s. 20.

28. The proper Master of Titles, on proof to his satisfaction of the determination of any lease of registered land existing at the first registration, shall note in the prescribed manner on the register, the determination of such lease. R.S.O. 1897, c. 138, s. 31.

Adverse Possession as against Registered Owner.

No acquisition of title by adverse possession.

Imp. 38 & 39 V., c. 87, s. 21.

10 Edw. VII. c. 34.

29.—(1) Where a title to registered land is claimed under *The Limitations Act,* no time prior to the registration of a registered owner of such land, shall be computed in the period of possession required to confer a title under the Act, as against such owner or any one claiming under him, but save as in this section provided the Act shall apply to registered land.

(2) The registration of a transfer, charge or transfer of a charge shall have the same effect for the purpose of stopping the running of the Statute as an entry on the land.

(3) Where a person claims to have obtained a title by possession to registered land he may lodge a caution under section 72, and apply to the proper Master of Titles for an order for the rectification of the register, and on such application if it is made to appear that the applicant had at the time he lodged the caution acquired such title the Master may declare the applicant entitled to the land or any part thereof and shall rectify the register accordingly.

(4) No person shall be deemed to have acquired a title by possession unless he has taken the proceedings provided for by subsection 3.

(5) This section shall not affect the provisions of paragraph "*c*" of subsection 1 of section 24. *New.*

PART IV.

TRANSFER AND CHARGE OF REGISTERED LAND.

Charge of Registered Land.

Creation of charges, and delivery of certificate of charge.

30.—(1) Every registered owner, may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest, or as security for any other purpose, and with or without a power of sale. R.S.O. 1897, c. 138, s. 33 (1). Imp. 38 & 39 V., c. 87, s. 22.

Charge how completed.

(2) The charge shall be completed by the proper Master of Titles entering on the register the person in whose favour the charge is made as the owner of the charge, stating the amount of the principal sum which the charge secures, with the rate of interest and the periods of payment, or the other purpose for which the charge is given.

(3) Where the charge contains a power of sale, that fact shall be stated, but the particulars need not be set out in the register, nor shall it be necessary to set forth incidental matters which may be expressly charged, such as costs of inspection, or of abortive attempts to sell and the like. 3 Edw. VII., c. 12, s. 3.

(4) The charge, when registered, shall confer upon the chargee a charge upon the interest of the chargor as appearing in the register subject to the incumbrances and qualifications to which such interest is subject, but free from any unregistered interests in the land. *New.*

(5) The Master shall also, if required, deliver to the owner of the charge, a certificate of charge in the prescribed form. R.S.O. 1897, c. 138, s. 33 (3).

(6) The provisions of section 73 of *The Registry Act* shall apply to the charge as if it was a registered mortgage. *New.* 10 Edw. VII. c. 60.

Implied covenant to pay charges.

31.—(1) Where a registered charge is created, there shall be implied on the part of the registered owner at the time of the creation of the charge, his heirs, executors and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge: Imp. 38 & 39 V., c. 87, s. 23.

(*a*) To pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land and that in case of default all payments made by the owner of the charge may be added to the principal sum and bear interest;

(*b*) If the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.

Provision where charge expressed to be made under 10 Edw. VII. c. 55.

(2) Where a charge, whether or not under seal, is expressed to be made in pursuance of *The Short Forms of Mortgages Act,* or refers thereto, and contains any form of words contained in clauses numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16, of Column One, of Schedule B to that Act, whether expressed in the first or third person, such words shall have the same meaning and effect as the words under the corresponding number in Column Two in that schedule: and the provisions of that Act shall apply to the charge. R.S.O. 1897, c. 138, s. 34.

Implied covenant in case of leaseholds to pay rent, etc., and indemnify owner of charge.

Imp. 38 & 39 V., c. 87, s. 24.

32. Where a registered charge is created on any leasehold land, there shall be implied on the part of the registered owner of such leasehold land at the time of the creation of the charge, his heirs, executors, and administrators, unless there is an entry on the register negativing the implication, covenants with the registered owner for the time being of the charge:

(*a*) That the registered owner of such leasehold land at the time of the creation of the charge, his executors, administrators or assigns, will pay, perform and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed; and

(*b*) Will keep the owner of the charge, his executors, administrators and assigns, indemnified against all actions, suits, expenses, and claims, on account of the non-payment of such rent, or any part thereof, or the breach of such covenants or

conditions, or any of them. R.S.O. 1897, c. 138, s. 35.

33. Subject to any entry to the contrary on the register, the registered owner of a registered charge, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge, may enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. R.S.O. 1897, c. 138, s. 36. Entry by owner of charge. Imp. 38 & 39 V., c. 87, s. 25.

34. Subject to any entry to the contrary on the register the registered owner of a registered charge may enforce it by foreclosure or sale, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption. R.S.O. 1897, c. 138, s. 37. Foreclosure by owner of charge. Imp. 38 & 39 V., c. 87, s. 26.

35. Subject to any entry to the contrary on the register, the registered owner of a registered charge with a power of sale, in accordance with the terms of the power, may sell and transfer the interest in the land, which is the subject of the charge, or any part thereof, in the same manner as if he were the registered owner of the land to the extent of such interest therein. R.S.O. 1897, c. 138, s. 38. Remedy of owner of charge with a power of sale. Imp. 38 & 39 V., c. 87, s. 27.

36. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created. R.S.O. 1897, c. 138, s. 39. Priority of registered charges. Imp. 38 & 39 V., c. 87, s. 28.

37.—(1) The proper Master of Titles shall, on the requisition of the registered owner of any land and on due proof of the satisfaction of a charge thereon, or may on the requisition of the registered owner of a charge or of his personal representative or on his certificate of the satisfaction thereof, note on the register in the prescribed manner, by cancelling the original entry or otherwise, the cessation of the charge; and thereupon the charge shall cease. Discharge of incumbrance. Imp. 38 & 39 V., c. 87, s. 28.

(2) The Master may in like manner and with the like effect note the cessation of any other incumbrance.

(3) On the requisition or certificate of the registered owner of a charge, or of the personal representative of such Partial cessation of charge

owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the Master may note on the register the discharge of such land from the charge or the discharge of such part of the money and thereupon as to the land or money discharged the charge shall cease. R.S.O. 1897, c. 138, s. 40.

Death of person certifying to cessation of charge.

(4) The death of the person who signed the requisition or certificate shall not revoke or otherwise affect the same. 7 Edw. VII., c. 30, s. 6.

Transfers after Land is Brought Under this Act.

Transfer of land, and delivery of land certificate.

38.—(1) Every registered owner may, in the prescribed manner, transfer the land or any part thereof.

Imp. 38 & 39 V., c. 87, s. 29.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the land transferred; and until such entry is made the transferor shall be deemed to remain owner of the land.

(3) Upon completion of the registration of the transferee. the Master shall, if required, deliver to him a certificate of ownership in the prescribed form.

(4) Where part only of the land is transferred, the Master shall also, if required, deliver to the transferor a certificate of ownership containing a description of the land retained by him. R.S.O. 1897, c. 138, s. 41.

Right to compel production of certificate of ownership.

39.—(1) Any person who is entitled to have a transfer or charge entered on the register, shall have the right to require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the proper Master of Titles, or to deliver it to such person for production for the purpose of having all proper entries or alterations made thereon by the Master, or for cancellation when the certificate has become effete.

(2) A person entitled to have a cessation of a charge entered shall have the right to have an outstanding certificate of ownership of the charge produced in like manner in order that it may be cancelled. R.S.O. 1897, c. 138, s. 42.

Master may require production of certificate of ownership.

40. Where upon an application for the registration of a charge or of a transfer of any land or charge, the proper Master of Titles considers it expedient to require the pro-

duction of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation when the same ought to be cancelled or for any other purpose, he may do so, and may decline to enter the charge or transfer on the register until the certificate has been produced, and if the certificate is not produced within such time as the Master limits, he may return the transfer or charge. R.S.O. 1897, c. 138, s. 43.

Transfers to trustees under Rev. Stat. c. 307.

41. Where registered land is transferred to trustees under *The Act respecting the property of Religious Institutions,* the trustees shall be registered as owners in the usual manner and by their corporate name without setting out the purposes or trusts on which the land is held, but, a note shall be made by the proper Master of Titles that the land is only to be transferred or charged in accordance with the provisions of that Act. R.S.O. 1897, c. 138, s. 44.

Estate of transferee for valuable consideration of land with absolute title.

Imp. 38 & 39 V., c. 87, s. 30.

42. A transfer for valuable consideration of land registered with an absolute title, when registered, shall confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges and appurtenances belonging or appurtenant thereto, subject to:

(*a*) The incumbrances, if any, entered or noted on the register; and

(*b*) Such liabilities, rights, and interests, if any, as are declared for the purposes of the Act not to be incumbrances, unless the contrary is expressed on the register, and

As to such rights, privileges and appurtenances, subject also to any qualification, limitation or incumbrance to which the same are expressed to be subject in the register, or where such rights, privileges and appurtenances are not registered, then subject to any qualification, limitation or incumbrance to which the same are subject at the time of the transfer. *New.*

But free from all other estates and interests whatsoever, including estates and interests of His Majesty, which are within the legislative jurisdiction of Ontario. R.S.O. 1897, c. 138, s. 45. *Amended.*

Estate of transferee for valuable consideration of land with qualified title.

43. A transfer for valuable consideration of land registered with a qualified title, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any

Imp. 38 & 39 V., c. 87, s. 31.

right or interest appearing by the register to be excepted. R.S.O. 1897, c. 138, s. 46.

Estate of transferee for valuable consideration of land with possessory title.

Imp. 38 & 39 V., c. 87, s. 32.

44. A transfer for valuable consideration of land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the registration of such owner; but, otherwise, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R.S.O. 1897, c. 138, s. 47.

Estate of voluntary transferee of land.

Imp. 38 & 39 V., c. 87, s. 33.

45. A transfer of registered land, made without valuable consideration, shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, otherwise, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 48.

Claims for Dower.

Claim that land is free from dower.

46.—(1) Where it is claimed that registered land is free from dower on account of the land being held in trust, or for some reason other than the wife's release of her dower by an instrument which can be produced and registered, and evidence to that effect which appears satisfactory is produced before the proper Master of Titles, he may issue a notice requiring the wife to support her right if she claims to be entitled to dower in the land; and if she fails to do so the Master may enter on the register a memorandum that the land is free from dower, and such entry shall, unless reversed on appeal, be a bar to any claim by such wife; and no appeal shall lie, unless the wife claims her right of dower before the Master.

(2) This section shall also apply to the widow of a former owner. R.S.O. 1897, c. 138, s. 49.

Dower of wife transferee of incumbered land.

47. Where registered land is transferred subject to a charge, or where the registered owner of land which is subject to a charge subsequently marries, the wife of the transferee or owner shall have the same rights in respect of dower as she would have had if the legal estate had been transferred by an ordinary mortgage and no others. R.S.O. 1897, c. 138, s. 50.

Transfers of Leaseholds.

48.—(1) Every registered owner of leasehold land may in the prescribed manner, transfer the whole of his estate in such land or in any part thereof. Transfer of leasehold land and delivery of office copy of lease.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the leasehold land transferred, but until such entry is made the transferor shall be deemed to remain owner. Imp. 38 & 39 V., c. 87, s. 34.

(3) Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease.

(4) If a part only is transferred, the Master, if required according to any agreement that has been entered into between the transferor and transferee, shall deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies shewing, by endorsement or otherwise, the parcels of which the person to whom such copy is delivered is the registered owner. R.S.O. 1897, c. 138, s. 51.

49. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, when registered, shall vest in the transferee the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject to Estate of transferee for valuable consideration of leasehold land with a declaration of absolute title of lessor. Imp. 33 & 39 V., c. 87, s. 35.

(*a*) All implied and express covenants, obligations, and liabilities incident to such estate;

(*b*) The incumbrances, if any, entered or noted on the register; and

(*c*) Such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be incumbrances in the case of registered freehold land, unless the contrary is expressed on the register;

But free from all other estates and interests whatsoever including any estates and interests of His Majesty, which are within the legislative authority of Ontario. R.S.O. 1897, c. 138, s. 52.

Estate of transferee for valuable consideration of of leasehold land without a declaration of title of lessor.

Imp. 38 & 39 V., c. 87, s. 37.

50. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor, shall not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but otherwise when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R.S.O. 1897, c. 138, s. 53.

Estate of transferee valuable consideration of leasehold land with a declaration of qualified title of lessor.

Imp. 38 & 39 V., c. 87, s. 36.

51. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held, when registered, shall have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R.S.O. 1897, c. 138, s. 54.

Estate of voluntary transferee of leasehold land.

Imp. 38 & 39 V., c. 87, s. 38.

52. A transfer of registered leasehold land made without valuable consideration shall be subject, so far as the transferee is concerned, to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but otherwise when registered in all respects and in particular as respects any registered dealings on the part of the transferee, shall have the same effect as a transfer of the same land for valuable consideration. R.S.O. 1897, c. 138, s. 55.

Implied covenants on transfer of leasehold estates.

Imp. 38 & 39 V., c. 87, s. 39.

53. On the transfer of any registered leasehold land, unless there is an entry on the register negativing such implication, there shall be implied

(*a*) On the part of the transferor, a covenant with the transferee that, notwithstanding anything by such transferor done, omitted, or knowingly suffered, the rents, covenants and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

(*b*) On the part of the transferee, a covenant with the transferor, that the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rents, covenants, and conditions by and in the registered lease reserved and con-

tained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his executors, administrators and assigns, indemnified against all actions, suits, expenses, and claims on account of the non-payment of the rent or any part thereof, or the breach of the convenants or conditions, or any of them. R.S.O. 1897, c. 138, s. 56.

Transfer of Charges.

Transfer of charges on register.

54.—(1) The registered owner of a charge may, in the prescribed manner, transfer such charge to another person as owner.

Imp. 38 & 39 V., c. 87, s. 40.

(2) The transfer shall be completed by the proper Master of Titles entering on the register the transferee as owner of the charge transferred.

(3) The transfer, when registered, shall confer upon the transferee the ownership of the charge free from any unregistered interests therein, and the transfer of part of the sum secured by a charge shall confer upon the transferee the ownership of such part free from any unregistered interests therein.

(4) Every transfer of a charge shall be subject to the state of account upon the charge between the chargor and the chargee.

(5) The Master shall also, if required, deliver to the transferee a fresh certificate of charge.

(6) The transferor shall be deemed to remain owner of such charge until the name of the transferee is entered on the register in respect thereof.

Transfer of part of a charge.

(7) The registered owner of a charge may transfer a part of the sum secured by the charge, and the part so transferred may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it, as may be stated in the transfer. R.S.O 1897, c. 138, s. 57. *Amended.*

Time of Registration.

Priority.

55. The day, hour and minute of the receipt of each instrument and copy of writ shall be noted thereon, and for the purpose of priority between chargees, transferees and others, the time of the receipt shall be deemed the time of registration. R.S.O. 1897, c. 138, s. 58.

Transmission of Land and Charges on Owner's Death.

Transmission on death of owner of freehold land.

Imp. 38 & 39 V., c. 87, s. 41.

56. On the death of the sole registered owner, or of the survivor of several joint registered owners, of any freehold land, such person shall be registered as owner, in the place of the deceased owner or owners, as may, on the application of any person interested in such land, be appointed by the proper Master of Titles, regard being had to the rights of the several persons interested in the land, and in particular to the selection of any such persons as may for the time being appear to the Master to be entitled, according to law, to be so appointed: subject to an appeal to the Court in the prescribed manner by any person aggrieved by any order of the Master under this section. R.S.O. 1897, c. 138, s. 59.

Transmission on death of owner of leasehold land or of charge.

Imp. 38 & 39 V., c. 87, s. 42.

57. On the death of the sole registered owner, or of the survivor of several joint registered owners of any leasehold land or of any charge, the executor or administrator of such sole deceased owner, or of the survivor of such joint owners, shall be entitled to be registered as owner in his place. R.S.O. 1897, c. 138, s. 60.

Transmission on death of one of several owners.

58. Where two or more persons have been entered as owners of any land or charge, and one of them dies, his personal representative may apply to be entered as owner jointly with the survivor or survivors. R.S.O. 1897, c. 138, s. 61.

Nature of title of registered fiduciary owners.

Imp. 38 & 39 V., c. 87, s. 46.

59. Any person registered in the place of a deceased owner shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates, rights, interests, or equities subject to which the deceased owner held the same; but otherwise in all respects, and in particular as respects any registered dealings with such land or charge, he shall be in the same position as if he had taken such land or charge under a transfer for a valuable consideration. R.S.O. 1897, c. 138, s. 62.

Evidence of transmission of registered ownership.

Imp. 38 & 39 V., c. 87, s. 47.

60. The fact of any person having become entitled to any land or charge in consequence of the death of any registered owner, shall be proved in the prescribed manner. R.S.O. 1897, c. 138, s. 63.

Entry of heir or devisee without reference to debts of estate.

10 Edw. VII., c. 56.

61. Where an heir or devisee applies to be entered as owner of any registered land, which has vested in him under *The Devolution of Estates Act,* the proper Master of Titles shall make such entry without reference to the liability of the land for debts, except under executions, copies of which have been duly lodged; and the liability under that Act of

such land or any transferor thereof shall be determined as if such land had not been registered under this Act. 3 Edw. VII. c. 12, s. 9. *Amended.*

Executions and Sale Thereunder.

Notice of executions.

62.—(1) The sheriff, or other officer to whom the same is directed forthwith after the delivery to him of any execution or other writ, or renewal thereof, affecting registered land, upon written request of the party by whom such execution or other writ was sued out or renewed, or of his solicitor, but not otherwise, shall deliver or transmit by registered post to the proper Master of Titles a copy of the writ certified under his hand; and no registered land shall be bound by any such writ until such copy has been received by the Master; and after the receipt by him of the copy, no transfer by the execution debtor shall be effectual, except subject to the rights of the execution creditor under the writ.

Books to be kept.

(2) The Master shall keep a book in the prescribed form, in which shall be entered a record of all writs, copies of which are received by him from the sheriff or other officer.

(3) No sale or transfer under any such writ shall be valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding that the purchaser may have had notice of the writ.

(4) Upon production to the Master of sufficient evidence of the satisfaction of any such writ, he shall cause an entry to be made in the book to that effect, and on such entry the writ shall be deemed to be satisfied.

(5) Every writ and renewal of a writ shall be presumed to have been spent, and the delivery or transmission of a copy thereof shall cease to have effect at the expiration of the writ or renewal as appearing on the copy transmitted; but if there has been a sufficient commencement of the execution to enable it to be completed by the sale and conveyance of the land under the writ, and the same has not been completely executed the sheriff or officer shall, or the execution creditor may, at any time within one month before the expiration of the writ or renewal as so appearing, file with the Master a certificate of the sheriff or officer stating that fact, and such certificate shall be noted at the entry of the writ in the book, and the writ shall continue in force for a further period of one year from the filing of the certificate when it shall cease to have effect unless another similar certificate is filed, which shall operate in like manner.

Notice to Master where writ issues against owner under a different name from that on the register.

(6) Where an execution or other writ is issued against the registered owner under a different name from that under which he is registered, the writ shall have no effect under this Act, unless the person who sues out the writ, or his solicitor, gives a notice to the Master, stating the name under which the execution debtor is registered, and otherwise in the form or to the effect prescribed, or unless a like notice is written upon the copy of the writ.

(7) The sheriff or other officer shall be entitled to a fee of fifty cents for each copy of writ or certificate transmitted by him. R.S.O. 1897, c. 138, s. 64. *Amended.*

Provision in case it is claimed that land is not affected by a writ apparently affecting same.

63. Where a transferor or transferee of land, or maker or owner of a charge, claims that a writ apparently affecting land does not affect the land or charge, he shall produce such evidence thereof as the proper Master of Titles may consider necessary, and the Master may require all parties interested to be notified of the application to register freed from the writ, and may himself decide the question or may direct an issue to be tried or a case to be stated and may make such order as to costs as he deems just. R.S.O. 1897, c. 138, s. 65.

Seizure of mortgage, charge, or leasehold.

64.—(1) The seizure under execution or other process of a mortgage or charge or of leasehold land registered under this Act, shall not take effect until a certificate of the sheriff or other officer that he has taken such mortgage, charge or leasehold land under such process against the registered owner thereof is lodged with the proper Master of Titles.

(2) The certificate shall state the number of the parcel under which the land affected is registered, and the name of the owner, and shall be noted by the Master in the register.

9 Edw. VII., c. 47.

(3) This section shall not apply where the proceedings prescribed by section 23 of *The Execution Act* have been taken with respect to a mortgage or charge. R.S.O. 1897, c. 138, s. 66. *Amended.*

Sale under execution of registered land.

65. Where any registered freehold or leasehold land is sold under execution or other process, the proper Master of Titles, upon the production to him of the transfer of the same by the sheriff or other officer in the prescribed form, with proof of the due execution thereof, shall cause a notice to be mailed to the proper post-office address of the person whose interest has been sold; and after the expiration of two weeks from the mailing of the notice, and if no other person has become entitled meanwhile for want of entry of the writ or otherwise, the Master shall register the purchaser as owner,

and shall, if required, issue to him a certificate of ownership in the prescribed form. R.S.O. 1897, c. 138, s. 67; 7 Edw. VII. c. 30, s. 7.

Sale for Taxes.

Sales for taxes.

66. —(1) Where land is sold for taxes, the purchaser may at any time after the sale lodge a caution against the transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form, with proof of the due execution thereof by the proper officer, the proper Master of Titles shall cause a notice to be mailed to the proper post-office address of the persons who appear upon the register to be interested in the land; and after the expiration of three months from the mailing of the notice, shall register the purchaser at the sale as owner of the land, with an absolute title; and shall, if required, issue to him a certificate of ownership in the prescribed form, unless the registration is in the meantime stayed by order of the Court, and in that case the registration shall not be made, nor shall the certificate be issued, except in accordance with the order and direction of the Court. R.S.O. 1897, c. 138, s. 68.

☞(2) Where it is made to appear to the Master that the purchaser has so dealt with the land that a mechanic's lien has or probably has attached thereto subsequent to the sale and a claim of lien has been registered against the land the Master may register the purchaser's title as subject to the claim of lien.☜

Cessation of Mechanics' Liens.

Cancellation of liens registered under 10 Edw. VII., 69.

67. On its appearing to the satisfaction of the proper Master of Titles that a lien under *The Mechanics' and Wage Earners' Lien Act* has ceased to exist, the Master may make an entry accordingly, or an entry cancelling the claim; and the land affected shall thereby be released *there* from the claim. R.S.O. 1897, c. 138, s. 69.

[*As to registration of Mechanics' Liens, see The Mechanics' and Wage Earners' Lien Act, 10 Edw. VII. c. 69, s. 17.*]

PART V.

OTHER DEALINGS WITH REGISTERED LAND.

Registered owner only may make registered disposition.

Effect of unregistered dispositions.

Imp. 38 & 39 V., c. 87, s. 49.

68.—(1) No person other than the registered owner shall be entitled to transfer or charge registered freehold or leasehold land by a registered disposition.

(2) Subject to the maintenance of the estate and right of such owner, any person, having a sufficient estate or interest in the land, may create estates, rights, interests and equities in the same manner as he might do if the land were not registered.

(3) Any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered owner, by entering on the register such notices, cautions, inhibitions, or other restrictions as are authorized by this Act.

(4) No person other than the registered owner thereof shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject matter admits, in and with which unregistered estates and interests may be created in registered land. R.S.O. 1897, c. 138, s. 70. *Amended.*

Right to Registration.

Right of transferees, and chargees, to registration.

69.—(1) Every transfer or charge signed by a registered owner or others claiming by transfer through, or under him, purporting to transfer or charge freehold or leasehold land, or an interest therein, capable of being registered, or purporting to transfer a charge, shall, until cut out by a conflicting registration, confer upon the person intended to take under such transfer or charge, a right to be registered as the owner of such land or charge, and where a person applies to be registered under this section, the proper Master of Titles may either forthwith, or after requiring such notices to be given as he deems expedient, register such applicant as owner, subject to such incumbrances, if any, as the condition of the title requires, notwithstanding that the transfer or charge has been executed or bears date prior to the entry of such transferor or chargor as the owner of the land or charge.

Application of devisees, etc., for registration.

(2) Any person claiming to be entitled to freehold or leasehold land, or to an interest therein, capable of being registered, or to a charge, as devisee, heir, executor or administrator of a person who might have been registered under subsection 1, or any person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land, interest or charge, and if no conflicting registration has been made, may be so registered subject to the provisions of this section.

(3) On registering the applicant, the Master shall, so far as practicable, enter on the register short particulars of every instrument or other title under which the right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and as a preliminary step to the registration of the applicant, may enter any intermediate transferee, heir, executor or administrator, as registered owner, where that method is more convenient. Mode of entry.

(4) No application by a person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are to be entered as owners. R.S.O. 1897, c. 138, s. 71. All persons entitled must apply.

(5) The Master may in like manner enter as owner of freehold or leasehold land or of a charge any person who is entitled to such land or charge through the death of the owner, although the deceased had not been registered as owner, or any person who is entitled by virtue of the exercise of any power conferred by a statute, will, deed, or other instrument, whether the person so entitled claims directly from the deceased or directly under the power, or through any other person entitled by virtue of the death or power or through a succession of transfers or transmissions. 1 Edw. VII. c. 16, s. 2. Entry of persons taking by transmission from unregistered owner.

Notice of Lease.

70.—(1) Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land where the term is for a life or lives, or is determinable on a life or lives, or where the period of the lease or agreement yet to run is three years or upwards, or where the occupation is not in accordance with such lease or agreement may apply to the proper Master of Titles to register notice of such lease or agreement in the prescribed manner. R.S.O. 1897, c. 138, s. 72 (1); 7 Edw. VII. c. 30, s. 8. Lessee may apply for registration of notice of lease. Imp. 38 & 39 V., c. 87, s. 50.

(2) Where the lease is by the registered owner of the land, the Master may without notice to him enter on the register such notice thereof as he deems necessary. Manner of registering notices of leases. Imp. 38 & 39 V., c. 87, s. 51.

(3) Where the lease is not by the registered owner but his title appears to be subject thereto, or in the case of an agreement for a lease, the Master upon notice to such owner may enter notice of the lease or agreement on the register.

(4) The applicant shall deliver to the Master the original lease or agreement or a copy thereof; and if the applica-

tion is granted the Master shall make a note on the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given. R.S.O. 1897, c. 138, s. 73 (1); 7 Edw. VII. c. 30, s. 9.

(5) If the registered owner concurs in a registration under subsection 2 or subsection 3, notice may be entered in such manner as may be agreed upon. R.S.O. 1897, c. 138, s. 73 (2).

(6) When so registered every registered owner of the land and every person deriving title through him, excepting owners of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an incumbrance on the land, in respect of which the notice is entered.

(7) Where notice of such lease or agreement has been registered the Master, on proof, to his satisfaction of the determination of the lease or agreement, shall in the prescribed manner note the determination on the register. R.S.O. 1897, c. 138, s. 72 (2-3).

(8) Where a notice of a lease or of an agreement for a lease has been registered under this section, a transferee or a chargee of the lease or agreement may apply to have a notice of his transfer or charge entered on the register. *New.*

(9) Uuless the transferee or chargee has actual notice of a prior transfer or charge, a transfer or charge in respect of which a notice has been entered, shall take priority of one of which notice has not been entered. *New.*

Notice of Estates in Dower or by the Curtesy.

Registration of notices of estates in dower or by the curtesy. Imp. 38 & 39 V., c. 87, s. 52.

71. Any person entitled to an estate in dower or by the curtesy in any registered land, may apply in the prescribed manner to the proper Master of Titles to register notice of such estate; and the Master, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly. R.S.O. 1897, c. 138, s. 74.

Caution against Registered Dealings.

Caution against regis-

72.—(1) Any person interested in any way in any land or charge registered in the name of any other person, may

lodge a caution with the proper Master of Titles to the effect that no dealings with such land or charge be had on the part of the registered owner or other named person who is shown to have an interest in the land until notice has been served upon the cautioner. R.S.O. 1897, c. 138, s. 75 (1); 7 Edw. VII. c. 30, s. 10.

tered dealings, how to be lodged. Imp. 38 & 39 V., c. 87, s. 53.

(2) The caution shall be supported by an affidavit made by the cautioner or his agent or solicitor in the prescribed form, and containing the prescribed particulars.

(3) A person interested under a lease, or agreement for a lease, of which notice has been entered on the register, or a person entitled to an estate in dower, or by the curtesy, of which notice has been entered on the register, shall not be entitled to lodge a caution in respect of such lease or agreement or estate in dower or by the curtesy. R.S.O. 1897, c. 138, s. 75.

(4) Every caution founded upon an execution or upon an allegation that a transfer, charge or other dealing is fraudulent shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect, and every such caution lodged five years before the passing of this Act shall, unless renewed, cease to have effect one year from the passing of this Act. *New.*

73.—(1) After any such caution has been lodged, the proper Master of Titles shall not, without the consent of the cautioner, register any dealing with the land or charge until after notice to the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next ensuing the date at which the notice is served.

Cautioner entitled to notice of proposed registered dealings. Imp. 38 & 39 V., c. 87, s. 54.

(2) After the expiration of such time the Master shall enter a cessation of the caution unless good cause for its continuance is shown. *New.*

(3) Upon the caution so ceasing, the land or charge shall be dealt with in the same manner as if no caution had been lodged.

(4) A notice to a cautioner shall not be required where the dealing proposed to be registered is under the authority of a judgment or order of court in a suit or proceeding to which the cautioner is a party, or where such dealing is under a power of sale contained in a charge or mortgage which is prior to the title under which the cautioner claims, and the cautioner has been served with a notice of the pro-

When notice of proposed registered dealings need not be given to cautioner.

posed exercise of the power of sale, and the caution is not in respect of the exercise of the power of sale, or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution.

(5) The Master upon receiving the consent of the cautioner to the registration of a dealing may discharge the caution unless the consent provides for its continuance, or he may discharge the caution as to the land or charge to which the dealing applies, but he shall not do so where from the nature of the dealing he is of opinion that the continuance of the caution is contemplated. *New.* R.S.O. 1897, c. 138, s. 76.

Registered owner objecting to the registration of his transferee.

74.—(1) Where the registered owner of any freehold or leasehold land has executed a transfer or a charge thereof, but claims that on account of special circumstances shown by affidavit the transferee or chargee should not be registered without notice to the registered owner, the proper Master of Titles may permit the registration of a caution by the registered owner. R.S.O. 1897, c. 138, s. 77 (1); 7 Edw. VII. c. 30, s. 11.

(2) The registration of such caution shall stay the registration of the transfer until such notice has been served on the cautioner in accordance with the provisions of section 73. R.S.O. 1897, c. 138, s. 77, (2).

Registered dealings delayed on security being given.

Imp. 38 & 39 V., c. 87, s. 55.

75. If before the expiration of the prescribed period the cautioner or some person on his behalf, appears before the proper Master of Titles, and within such period, or such additional period as the Master may allow, gives sufficient security to indemnify every person against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the Master may delay registering any dealing with the land or charge for such further period as he deems just, or may instead of taking the security register such dealing, subject to the caution on any condition which he thinks fit to impose, as to security or otherwise, or may make such other order as he deems just. R.S.O. 1897, c. 138, s. 78; 7 Edw. VII. c. 30, s. 12 (1).

Entry of second caution.

76. A second caution by the same cautioner, or by any other person in respect of the same matter, shall not be lodged, or if lodged shall not be entered, or have any effect without the special permission of the proper Master of Titles, which may be given either upon terms or without terms, as he may think proper. R.S.O. 1897, c. 138, s. 79; 7 Edw. VII. c. 30, s. 12 (2).

Sale of Standing Timber.

77. Where timber standing upon registered land is sold under an agreement in writing, the purchaser, instead of entering a caution, may deposit the agreement with the proper Master of Titles, and the Master, upon proof of the due execution thereof by the owner, shall register the same as an incumbrance upon the land by entering a memorandum upon the register referring to the instrument and giving shortly the effect thereof. R.S.O. 1897, c. 138, s. 80.

Sale of standing timber.

Inhibition against Registered Dealings.

78.—(1) The Court or the proper Master of Titles upon the application of any person interested, made in the prescribed manner in relation to any registered land or charge, after directing such inquiries, if any, to be made and notices to be given, and after hearing such persons as the Court or Master deems expedient, may issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with registered land or with a registered charge.

Power of court or master to inhibit registered dealings.

Imp. 38 & 39 V., c. 87, s. 57.

(2) The Court or the Master may make an order or an entry, and may impose any terms or conditions which may be deemed just, and may discharge the order or cancel the entry, with or without costs, and generally act in the premises in such manner as the justice of the case requires. R.S.O. 1897, c. 138, s. 81.

Power of Registered Owner to Impose Restrictions.

79.—(1) Where the registered owner of freehold or leasehold land or of a charge desires to place restrictions on transferring or charging the land or charge, he may apply to the proper Master of Titles to make an entry on the register that no transfer shall be made or charge created unless the following things, or such of them as the owner may determine, are done; that is to say—

Power to place restrictions on register.

Imp. 38 & 39 V., c. 87, s. 58.

(*a*) Unless notice of any application for a transfer or for the creation of a charge is transmitted by registered post to such address as he may specify to the Master;

(*b*) Unless the consent of some person or persons, to be named by the owner, is given to the transfer or the creation of a charge; or

(*c*) Unless some other matter or thing is done as may be required by the applicant and approved by the Master. R.S.O. 1897, c. 138, s. 82; 7 Edw. VII. c. 30, s. 13.

Master to enter restrictions in register.

Imp. 38 & 39 V., c. 87, s. 59.

(2) If the Master is satisfied of the right of the applicant to give such directions, he shall make a note of them on the register, and no transfer shall be made or charge created except in conformity therewith.

(3) The Master shall not be required to enter any direction, except upon such terms as to payment of the fees and otherwise as may be prescribed, or to enter any restriction that he may deem unreasonable, or calculated to cause inconvenience.

(4) Any such direction may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in such direction, and shall also be subject to be set aside by the Court. R.S.O. 1897, c. 138, s. 83; 7 Edw. VII. c. 30, s. 13.

PART VI.

SUPPLEMENTAL PROVISIONS.

Notice of Registered Instruments.

Notice by registration.

80. No person other than the parties thereto shall be deemed to have any notice of the contents of any instruments other than those mentioned in the existing register of title of the parcel of land or which have been duly entered in the books of the office kept for the entry of instruments received or are in course of entry. R.S.O. 1897, c. 138, s. 84.

Caution Against Entry of Land on Register.

Caution against registration of land.

Imp. 38 & 39 V., c. 87, s. 60.

81.—(1) Any person having or claiming such an interest in any unregistered land as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the proper Master of Titles to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land.

Renewal of every five years.

(2) Every caution under this section shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect.

(3) No caution registered under this section in respect of any unpatented land shall be of any validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the Patent, or describes the same in such manner that the Master may know that the description in the caution is intended to affect the land described in the Patent. R.S.O. 1897, c. 138, s. 85. *Amended.*

Cautions as to Actions Pending.

Lis pendens not to be registered.

82. A certificate of *lis pendens* affecting land shall not be registered, but any party to an action, or his solicitor, or any person claiming to be interested in the action, may lodge a caution subject to the same conditions as in other cases. R.S.O. 1897, c. 138, s. 86.

General Provisions as to Cautions.

Cautioner entitled to notice of proposed registration of land.

Imp. 38 & 39 V., c. 87, s. 62.

83. After a caution has been lodged in respect of any unregistered land, and while the same is in force, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose such registration, and until the prescribed time has elapsed after the date of the service of such notice, or the cautioner has appeared, whichever may first happen. R.S.O. 1897, c. 138, s. 88.

Caution to be supported by affidavit.

Imp. 38 & 39 V., c. 87, s. 61.

84. Every caution shall be supported by an affidavit in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution, and such other matters as may be prescribed. R.S.O. 1897, c. 138, s. 87.

Caution Wrongfully Lodged.

Compensation for improper lodging of caution.

Imp. 38 & 39 V., c. 87, s. 63.

85. Any person who lodges a caution without reasonable cause shall be liable to make to any person who may sustain damage by the lodging of such caution such compensation as may be just; and such compensation shall be deemed to be a debt due from the person who has lodged the caution to the person who has sustained damage. R.S.O. 1897, c. 138, s. 89.

Effect of caution.

Imp. 38 & 39 V., c. 87, s. 64.

86.—A caution shall not prejudice the claim or title of any person, and shall have no effect except as in this Act provided. R.S.O. 1897, c. 138, s. 90.

Costs.

Payment of costs.

Imp. 38 & 39 V., c. 87, s. 73.

87.—(1) Any applicant under this Act shall be liable *prima facie* to pay all costs, charges, and expenses incurred by or in consequence of his application, except where parties whose rights are sufficiently secured without their appearance object, or where any costs, charges or expenses are incurred unnecessarily or improperly.

(2) The proper Master of Titles may order costs, either as between party and party, or as between solicitor and client to be paid by or to any person, party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid, regard being had to the provisions of subsection 1.

(3) Any person aggrieved by an order of the Master made under this section may appeal in the prescribed manner to the Court, which may annul or with or without modification, confirm the order of the Master. R.S.O. 1897, c. 138, s. 91.

Enforcement of order.

(4) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court, and thereupon, subject to such right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the Court. R.S.O. 1897, c. 138, s. 92.

Doubtful Questions of Law or Fact.

Master may state a case for opinion of court, or apply for direction to try the issue.

Imp. 38 & 39 V., c. 87, s. 74.

88.—(1) Where upon the examination of a title or upon an application with respect to registered land the proper Master of Titles entertains a doubt as to any matter of law he may state a case for the opinion of the Court and may name the parties to it; and where he entertains a doubt as to any matter of fact he may direct an issue to be tried for the purpose of determining such fact. R.S.O. 1897, c. 138, ss. 93-94; 7 Edw. VII. c. 30, s. 14. *Amended.*

(2) The practice and procedure on and incidental to a case stated or on an issue directed under this section and the right to appeal from the judgment or other determination thereof shall be the same as on a special case or on an issue directed in an action. *New.*

(3) The powers conferred by this section shall not be exercised by a local Master of Titles except with the approval of the Inspector. *New.*

89.—(1) Where any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or person yet unborn is interested in the land in respect of the title to which a question arises *as aforesaid,* any person interested in the land may apply to the Court for a direction that the opinion of the Court to which the case is stated under this Act shall be conclusively binding on such infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person. R.S.O. 1897, c. 138, s. 95.

Intervention of Court in case of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 76.

(2) The Court shall hear the allegations of all parties appearing before it, and may disapprove altogether, or may approve, either with or without modification, of the directions of the proper Master of Titles in respect to any case stated as to the title of land.

Power of Court to bind interests of incapacitated persons.

Imp. 38 & 39 V., c. 87, s. 77.

(3) The Court may also, if necessary, appoint a guardian or other person to appear on behalf of any infant, idiot, lunatic, person of unsound mind, person absent from Canada, or unborn person.

(4) The Court, if satisfied that the interests of the person under disability, absent, or unborn, will be sufficiently represented in any case, shall make an order declaring that all persons, with the exceptions, if any, named in the order, are to be conclusively bound; and thereupon all persons, with such exceptions, shall be conclusively bound by the decision of the Court. R.S.O. 1897, c. 138, s. 96.

Certificates of Ownership, Office Copies of Leases, and Certificates of Charge.

90. If any certificate of ownership or office copy of a registered lease or certificate of charge is lost, mislaid, or destroyed, the proper Master of Titles, upon being satisfied of that fact, may grant a new certificate of ownership or office copy or certificate of charge in place of the former one. R.S.O. 1897, c. 138, s. 98.

Loss of Land certificate, or certificate of charge, or office copy of lease.

Imp. 38 & 39 V., c. 87, s. 78.

91. The proper Master of Titles, upon the delivery up to him of a certificate of ownership, or of an office copy of a registered lease or of a certificate of charge, may grant a new certificate of ownership or office copy of lease or certificate of charge in place of the one delivered up. R.S.O. 1897, c. 138, s. 99.

Renewal of land certificate, or certificate of charge, of office copy of lease.

Imp. 38 & 39 V., c. 87, s. 79.

92. A certificate of ownership or certificate of charge shall be *prima facie* evidence of the matters therein contained, and the office copy of a registered lease shall be

Land certificate, certificate of charge, and office copy of

lease to be evidence.
Imp. 38 & 39 V., c. 87, s. 80.

evidence of the contents of the registered lease. R.S.O. 1897, c. 138, s. 100.

Effect of deposit of land certificate, or of office copy of lease.
Imp. 38 & 39 V., c. 87, s. 81.

93. Subject to any registered estates, charges, or rights the deposit of the certificate of ownership in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land for the purpose of creating a lien on the land to which such certificate or lease relates, shall be deemed equivalent to a deposit of the title deeds of the land. R.S.O. 1897, c. 138, s. 101.

Incorporeal Hereditaments, Mining Rights and Easements.

Registry of special hereditaments.
Imp. 38 & 39 V., c. 87, s. 82.

94.—(1) The proper Master of Titles may register the owner of any incorporeal hereditament of freehold tenure, enjoyed in gross, also the owner of any mines or minerals where the ownership of the same has been severed from the ownership of the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register the owner of land, or as near thereto as circumstances admit. R.S.O. 1897, c. 138, s. 102.

Registration of easements when dominant land registered.

(2) Where an easement in or over unregistered land is granted as appurtenant to registered land, the Master, after such examination as he deems necessary, may enter such easement in the register of the dominant land with a declaration that the title thereto is absolute, qualified or possessory, or otherwise as the case may require, and shall cause to be registered in the proper registry division a certificate of such entry.

Certificate of easement when dominant land unregistered.

(3) Where an easement in or over registered land is granted as appurtenant to unregistered land the Master may issue a certificate setting out such easement and the land to which it is appurtenant, which may be registered in the registry division in which the land is situate and he shall note on the register that such certificate has been issued. 7 Edw. VII. c. 30, s. 15.

General Provisions.

Enactment as to registration.
Imp. 38 & 39 V., c. 87, s. 83.

95.—(1) There shall not be entered on the register or be receivable any notice of any trust, express, implied, or constructive.

Trusts.

(2) Describing the owner of any freehold or leasehold land or of any charge as a trustee, whether the beneficiary or object of the trust is or is not mentioned, shall not be deemed a notice of a trust within the meaning of this section, nor

shall such description impose upon any person dealing with such owner the duty of making any enquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise; but, subject to the registration of any caution or inhibition, such owner may deal with the land or charge as if such description had not been inserted.

(3) Where two or more owners are described as trustees, the property shall be held to be vested in them as joint tenants unless the contrary is expressly stated. R.S.O. 1897, c. 138, s. 103, par. 1; 2 Edw. VII. c. 19, s. 1.

(4) Nothing in this section shall prevent the registration of a charge given by an incorporated company for the purpose of securing bonds or debentures of the company. 9 Edw. VII. c. 26, s. 15.

Undivided shares.

96.—(1) No person shall be registered as owner of any undivided share in any freehold or leasehold land or of any charge apart from the other share or shares.

(2) The share of each owner may be stated, and where the extent of his interest appears on the register, or by the statement of his co-owners, he may transfer or charge his share, or he may without such statement transfer his share to his co-owners. R.S.O. 1897, c. 138, s. 103, pars. 1 and 2. *amended.*

97.—(1) Where the number of persons who may be registered as the owners of the same freehold or leasehold land or charge is limited by a Rule, a number of persons exceeding the number prescribed shall not be registered as owners of such land or charge; and if the number of persons shewing title exceeds the prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or as the proper Master of Titles in case of difference decides, shall be registered as owners.

(2) Upon the registration of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register, to the effect that when the number of such owners is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the Court.

"No survivorship."

(3) In such a case the words "No survivorship" in the entry shall be construed to mean that if any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the Court. R.S.O. 1897, c. 138, s. 103, pars. 3, 4, 5.

Description of land.

98.—(1) Registered land shall be described in such manner as the proper Master of Titles deems best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the land.

(2) No alteration shall be made in the registered description of land, except under the order of the Court, or under section 119, or by way of explanation, or under Rules of Court; but this provision shall not extend to registered dealings with registered land in separate parcels, although such land was originally registered as one parcel. R.S.O. 1897, c. 138, s. 103, pars. 6, 7.

Annexation of conditions or covenants to registered land.

Imp. 38 & 39 V., c. 87, s. 84.

99.—(1) There may be registered as annexed to any land which is being or has been registered, subject to general rules and in the prescribed manner, a condition or covenant that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land. R.S.O. 1897, c. 138, s. 104 (1); 7 Edw. VII., c. 30, s. 16 (1).

(2) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant; but any such condition or covenant may be modified or discharged by order of the Court, on proof to the satisfaction of the Court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant. R.S.O. 1897, c. 138, s. 104.

Covenants or conditions running with land.

(3) The entry on the register of a condition or covenant as running with or annexed to land shall not make it run with the land, if such covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land.

Subsequent transfers.

(4) Where a condition or covenant has been entered on the register as annexed to or running with land, and a similar condition is contained in a subsequent transfer or a similar covenant is in express terms entered into with the owner of the land by a subsequent transferee, or *vice versa*, it shall not be necessary to repeat such condition or covenant on the register or to refer thereto, but the proper Master of Titles may, upon a special application, enter such condition or covenant either in addition to or in lieu of the condition or covenant first mentioned. 7 Edw. VII., c. 30, s. 16 (2).

Registered land to be within Rev. Stat. c. 129.

100. All the provisions of *The Trustee Act* which are not inconsistent with the provisions of this Act shall apply

to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of that Act relating to land or choses in action. R.S.O. 1897, c. 138, s. 105. Imp. 38 & 39 V., c. 87, s. 85.

101. Neither the Master of Titles, nor any Local Master of Titles, or any person acting under their authority, or under any order of Court or general rule, shall be liable to any action, suit, or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Act, or of any such order or general rule. R.S.O. 1897, c. 138, s. 106. Indemnity of Master of Titles. Imp. 38 & 39 V., c. 87, s. 86

Instruments need not be Sealed.

102. Notwithstanding the provisions of any statute, or any rule of law, any charge or transfer of land registered under this Act may be duly made by an instrument not under seal, and if so made, the instrument and every agreement, stipulation and condition therein shall have the same effect for all purposes as if it were made under seal. R.S.O. 1897, c. 138, s. 107. *Amended.* Charges and transfers may be made without seal.

Married Women.

103. A married woman shall for the purposes of this Act be deemed a *feme sole,* and may execute without seal any bar of dower or other instrument required under this Act. R.S.O. 1897, c. 138, s. 108. Execution of instruments by married women.

Persons under Disability.

104.—(1) In case any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is an infant, an idiot, or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceedings as such person, if free from disability, might have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act. Where any party is a minor or lunatic, guardian, etc., may act. Imp. 38 & 39 V., c. 87, s. 88.

(2) If the infant has no guardian, or the idiot or lunatic has no committee of his estate, or if a person yet unborn is interested, the official guardian shall act with like power, or the proper Master of Titles may appoint a person with like power to act for the infant, idiot, lunatic, or person yet unborn. R.S.O. 1897, c. 138, s. 97. Official guardian to act if no guardian, etc., or Master may appoint some person.

Plans.

Plan of lots to be sold by plan to be registered

105.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall register in the proper Land Titles Office a plan of the land on a scale of not less than one inch to every four chains.

Lot number to be shown.

(2) The plan shall show in black India ink the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land being subdivided, except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show in ink of another colour the numbers or other distinguishing marks of the lot or lots subdivided and by broken lines the boundary lines thereof.

Each lot to be numbered and scale shown.

(3) The number or other distinguishing mark, and the width both front and rear shall be marked on each lot of the subdivision in black India ink, the scale shall also be marked on the plan, and such information as will show the depth of the lots and the courses of all the boundaries of or the division lines between the same, and the governing line or lines to which such courses are referred shall also be indicated.

Posts or monuments.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

Roads, railways, rivers, etc.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, mill-ponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land.

No two lots to have same number.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by numbers the lots shall be numbered consecutively.

To show what land is laid out.

(7) The plan shall also show distinctly what land is being laid out thereby, and shall by proper colouring distinguish such land from all other land shown on the plan, but not in fact laid out thereby, and the last mentioned land shall be shown uncoloured.

(8) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size, and no such plan shall be less than twenty-four inches in length or twelve inches in width. Mounting and size of plan.

(9) The plan before being registered shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall be certified by an Ontario Land Surveyor in the prescribed form. To be signed by owner and certified by land surveyor.

(10) The proper Master of Titles, before filing the plan, may require evidence to be given explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter of which he requires explanation. *New.* Master may require explanation.

See 10 Edw. VII., c. 60, s. 80.

(11) Every person who deposits a plan of any survey or subdivision of land made by such person for the purpose of selling or conveying the same in lots, or of any alteration of a previous survey or subdivision, shall at the same time deposit a duplicate of such plan, and the Master shall endorse thereon a certificate showing the number of such plan and the date when the duplicate original thereof was filed with him, and the same shall be delivered by the Master to the treasurer, or assessment commissioner of the local municipality in which the land is situate upon request and without fee. Delivery of plans to municipal treasurers.

(12) The Master shall not file or register any plan unless and until a duplicate thereof is deposited in accordance with the provisions of subsection 11. R.S.O. 1897, c. 138, s. 109.

☞(13) In the case of surveys hereafter made the plan shall be accompanied by a copy certified by the surveyor by whom the survey was made to be a true copy of the field notes of the survey.☜

106.—(1) In cases not provided for by section 105, the proper Master of Titles may require a person applying for registration to deposit a plan of the land, with the several measurements marked thereon, certified by an Ontario Land Surveyor, and as many counterparts as may be required, upon one of the following scales:— Master may require plan to be registered in certain cases.

(*a*) If the land, or the part thereof proposed to be transferred or dealt with, is of less area than one acre, the plan shall be on a scale not less than one inch to two chains; Rules 50 and 51 made under Imp. Act 38 and 39 V.,

(*b*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, the plan shall be on a scale not less than one inch to five chains;

(*c*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, the plan shall be on a scale not less than one inch to ten chains;

(*d*) If the land, or the part thereof proposed to be transferred or dealt with, is of greater area than eighty acres, the plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the plan and verify its accuracy before some person authorized under section 132.

(3) If the owner neglects or refuses to comply with such requirements, the Master may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent subdivisions of the same land may be delineated upon a duplicate of the plan so deposited, if the scale upon which it is drawn permits of that being done in conformity to the provisions of subsection 1; and the accuracy of the delineation of each such subdivision shall be certified and verified in the manner prescribed by subsections 1 and 2.

(5) Where the land of which a plan is directed to be deposited includes parts of different subdivisions, the plan shall represent the whole of each subdivision and shall indicate the location of the land to be transferred; but this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered, unless the Master otherwise directs.

See Rules No. 67.

Plan of street, road, lane, or common.

107. In case a plan of subdivision lays out any portion of the land as a street, road, lane or common, it shall not be registered unless on the application of the owner of the land subdivided, with the consent in writing of all persons who are registered as mortgagees or chargees thereof. Vide R.S.O. 1897, c. 136, s. 102 (4).

Instruments must conform to plan.

108. All instruments affecting the land or any part thereof lodged with the proper Master of Titles after a plan

is registered, shall conform and refer thereto, or registration shall not be had thereunder, unless the Master under special circumstances deems it proper to accept the same. *New.*

Filing plans with roads less than 66 feet in width.

109. No plan upon which a road, street or highway less than 66 feet wide is laid out shall be registered unless and until the assent of the proper municipal council is registered therewith where such assent is by law necessary, and no plan upon which a street, road or lane is laid out shall be filed in any such office unless there is filed therewith the approval of the proper municipal council or unless such plan is approved by a Judge of the County or District Court of the county or district in which the land lies, where the same is not in the County of York or City of Toronto, or by the Master of Titles where the land is in the County of York or City of Toronto, after notice in each case to the proper municipal council. R.S.O. 1897, c. 138, s. 110; 8 Edw. VII., c. 38, s. 1.

Plan not binding unless sale made according to it.

110.—(1) No plan, although registered in an office of Land Titles, shall be binding on the person registering the same, or upon any other person, unless a sale has been made according to such plan; and in all cases amendments or alterations thereof may be ordered to be made at the instance of the person registering the same or his assigns,

Amendment of plans.

(*a*) By the High Court, or by a Judge thereof,

(*b*) Where the land is not in the County of York or City of Toronto, by a Judge of the County or District Court of the county or district in which the land lies, or

(*c*) Where the land is in the County of York or City of Toronto by the Master of Titles,

if on application for the purpose duly made, and upon hearing all persons concerned, it is thought just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed just and expedient.

(2) An appeal shall lie from any such order to the Court of Appeal. R.S.O. 1897, c. 138, s. 111.

Transfer of plans from registry offices.

111. Where all the lots on any plan of subdivision registered in a registry office are registered under this Act, the proper Master of Titles may require the Registrar to deliver the plan to him to be registered in his office; and the Registrar shall thereupon deliver the same, taking a receipt therefor. R.S.O. 1897, c. 138, s. 112.

Notices.

Address of persons on register.

Imp. 38 & 39 V., c. 87, s. 89.

112.—(1) Every person whose name is entered on the register as owner of freehold or leasehold land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish a place of address in Ontario, and may from time to time substitute some other place of address in Ontario for that originally furnished.

(2) If any such person fails to furnish a place of address for service, a notice sent by post addressed to such person at the place named in the registered instrument under which he claims, as his place of residence, shall be sufficient, unless the proper Master of Titles otherwise directs. R.S.O. 1897, c. 138, s. 113.

Service of notices.

Imp. 38 & 39 V., c. 87, s. 90.

(3). Every notice by this Act required to be given to any person shall be served personally, or sent by registered post directed to such person at the address or last address, as the case may be, furnished, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of posting, as may be prescribed. R.S.O. 1897, c. 138, s. 114.

Return of notices by post-office.

Imp. 38 & 39 V., c. 87, s. 91.

(4) The envelope containing any notice under this Act shall have printed thereon the words "Office of Land Titles," and a request in the prescribed manner for the return thereof to the office of Land Titles, in case the person to whom the notice is addressed cannot be found.

(5) On the return of any envelope containing any notice, the Master shall act in the matter requiring the notice to be given in the manner prescribed. R.S.O. 1897, c. 138, s. 115.

Purchasers for value not affected by omission to send notices.

Imp. 38 & 39 V., c. 87, s. 92.

113. A purchaser for valuable consideration when registered shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof. R.S.O. 1897, c. 138, s. 116.

Specific Performance.

Power of court in action for specific performance.

Imp. 38 & 39 V., c. 87, s. 93.

114.—(1) Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the Court having cognizance of the action may by such mode as it deems expedient, cause all or any persons who have registered estates or rights in the land or charge, or have entered notices, cautions or inhibitions against the same, to appear in the action, and shew cause why the contract should not be specifically performed; and the Court may direct that any order made by the Court in the action shall be binding on such persons or any of them. R.S.O. 1897, c. 138, s. 117.

(2) All costs awarded to any person so appearing may, if the Court so orders, be taxed as between solicitor and client. R.S.O. 1897, c. 138, s. 118. *Amended.*

Costs in action for specific performance.

Imp. 38 & 39 V., c. 87, s. 94.

Rectification of the Register.

115. Subject to any estates or rights acquired by registration in pursuance of this Act, where any Court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision the Court is of opinion that a rectification of the register is required, the Court may make an order directing the register to be rectified in such manner as may be deemed just. R.S.O. 1897, c. 138, s. 119.

Establishment of adverse title to land.

Imp. 38 & 39 V., c. 87, s. 95.

116. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made, or by the omission of any entry from the register, or if default is made or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay, may apply to the Court in the prescribed manner for an order that the register may be rectified; and the Court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, make an order for the rectification of the register. R.S.O. 1897, c. 138, s. 120.

Register to be rectified under order of court.

Imp. 38 & 39 V., c. 87, s. 96.

117. The Master of Titles and the Local Masters of Titles shall obey the order of any competent Court in relation to any registered land, on being served with the order or an office copy thereof. R.S.O. 1897, c. 138, s. 121.

Master to obey orders of court.

Imp. 38 & 39 V., c. 87, s. 97.

118.—(1) Upon the conviction under this Act, or under the Criminal Law of Canada, of any person for an offence whereby such person fraudulently procured an entry on the register by reason of which any person other than the rightful owner has become the registered owner of land, or by reason of which land under this Act has been wrongfully incumbered, the proper Master of Titles, on the application of the rightful owner, may cancel such wrongful entry and may enter the rightful owner as the registered owner of the land.

Cancellation of fraudulent entries.

(2) If while the wrongful entry was subsisting on the register any innocent person has been registered as the owner of any charge upon, or any estate, right or interest in the land, the Master, instead of cancelling the wrongful

Where land has been transferred to innocent holder.

entry may make an entry on the register stating the fact of the conviction and revesting the land in the rightful owner subject to such charge, estate, right or interest, and the land shall thereupon be vested in the person named in such last mentioned entry in accordance with the terms thereof.

(3) This section shall apply to past as well as future cases. 1 Edw. VII., c. 16, s. 1.

Entry of caution by Master in case of error.

119.—(1) The proper Master of Titles may *sua sponte* and without affidavit enter a caution to prevent the dealing with any registered land when it appears to him that an error has been made in any entry by mis-description of such land, or otherwise.

Correction of errors.

(2) Subject to the rules the Master, before the receipt of any conflicting instrument, or after notifying all persons interested, upon such evidence as appears to him sufficient, may correct errors and supply omissions in certificates of ownership or of charge, or in the register, or in any entry therein, and may call in any outstanding certificate for that purpose. R.S.O. 1897, c. 138, s. 122.

Restoration of covenants or conditions and compensation therefor.

(3) Where the Master under this section restores to the register any covenant or condition he may do so with such modifications as he deems advisable so as to do the least possible injury to the persons affected by their omission, or by their restoration, and upon notice to the Attorney-General for Ontario, at the same time or subsequently may determine what damages, if any, shall be paid to any of the persons claiming to have been injuriously affected by the omission of the covenants or by their restoration. 2 Edw. VII., c. 19, s. 2.

Correction of errors in patents after registration. Rev. stat. c. 28.

120. Where land has been registered under this Act, and the Minister of Lands, Forests and Mines under *The Public Lands Act* directs an incorrect patent to be cancelled and a correct one to be issued in its stead, the proper Master of Titles, upon receipt of the subsequent patent, if no conflicting instrument has been received, shall amend the entry on the register to accord with the amending patent, or if a conflicting instrument has been received, the Master, after notifying all persons interested, may make such amendment. R.S.O. 1897, c. 138, s. 123.

Fraud.

Fraudulent dispositions.

Imp. 38 & 39 V., c. 87, s. 98.

121. Subject to the provisions of this Act with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which, if unregis-

tered, would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. R.S.O. 1897, c. 138, s. 124.

Certain fraudulent acts declared to be offences.

122.—(1) Any person who fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, shall be guilty of an offence under this Act, and upon conviction shall be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding $1,000 as the Court before which he is tried may adjudge.

Imp. 38 & 39 V., c. 87, s. 100.

(2) Any such entry, erasure, or alteration shall be void as between all parties or privies to the fraud. R.S.O. 1897, c. 138, s. 126. *Amended.*

See The Criminal Code, ss. 175 and 420, as to the fraudulent registration of titles and making false affidavits.

ASSURANCE FUND.

Assurance fund.

123.—(1) An Assurance Fund shall be formed for the indemnity of persons who may be wrongfully deprived of land or some estate or interest therein by reason of the land being brought under the provisions of this Act, or by reason of some other person being registered as owner through fraud, or by reason of any misdescription, omission, or other error in a certificate of ownership or of charge or in any entry on the register. R.S.O. 1897, c. 138, s. 130 (1).

Assurance fund, how constituted.

(2) In order to constitute such fund, there shall be payable on the first registration under this Act of any land with an absolute or qualified title, in addition to all other fees a sum equal to one-fourth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-tenth of one per cent. of the value of the buildings and fixtures, and with a possessory title one-eighth of one per cent. of the value of the land apart from the buildings or fixtures thereon, and one-twentieth of one per cent. of the value of the buildings and fixtures. 3 Edw. VII., c. 12, s. 5.

(3) Where the sum to be paid under the foregoing provision does not amount to $1, the amount payable shall be $1. 3 Edw. VII., c. 12, s. 5.

(4) Subject to the rules, money payable under subsections 2 and 3 shall be paid into Court, with the privity of the Accountant of the Supreme Court, and shall be placed to

the credit of an account to be intituled "Assurance Fund under the Land Titles Act," and subject to the provision of subsection 5, shall be invested from time to time under the direction of the Court, and the interest or income derived therefrom shall be credited to the same account. R.S.O. 1897, c. 130, s. 130 (3).

(5) All money paid under this section, and in Court at the credit of the "Assurance Fund" and all money hereafter payable under this section shall, on his demand, be paid to the Treasurer of Ontario. 10 Edw. VII., c. 61, *part*.

(6) Where the amount to be paid into the assurance fund is not more than $10, no fee shall be payable for a direction to the bank to receive the same, and where such amount is payable in respect of a proceeding before a Local Master of Titles, the person desiring to pay the same may, at his own risk, transmit the amount by a money order, payable to "The Accountant of the Supreme Court at Toronto," in a registered letter addressed to the Accountant, together with a requisition in the prescribed form.

Valuation of the land by applicant.

(7) Subject to the rules the value of the land shall be ascertained by the oath of the applicant, unless the proper Master of Titles dispenses therewith.

Master may obtain valuation.

(8) Subject to the rules, if the oath of the applicant is dispensed with, or if the Master is not satisfied as to the correctness of the value stated by the oath of the applicant or of any other person, he may require the affidavit or certificate in that behalf of a sworn valuator; and such affidavit or certificate shall be conclusive.

(9) The expense of obtaining such valuation or certificate as allowed by the Master shall be paid to the Master by the registered owner, before any dealing with the land is registered. R.S.O. 1897, c. 138, s. 131.

Expenses of valuation.

(10) The Master may require any applicant for registration to indemnify the Assurance Fund against loss by a bond or covenant to His Majesty, either with or without sureties or by such other security as he considers expedient. R.S.O. 1897, c. 138, s. 130 (3-7). *Amended.*

Election to have fees for assurance funds made charge.

(11) It shall not be necessary that the assurance fees payable on first registration be then paid, but if not then paid the same shall be a charge on the land, and the amount with interest at 5 per cent. compounded annually shall be stated in the entry of ownership to be a charge on the land, and

no subsequent transfer or charge of the land or any transmission thereof, or any part thereof, shall be registered, except as is in this section provided, until the amount of such charge shall have been paid into the Assurance Fund and proper proof of such payment furnished to the Master, but this subsection shall not apply to cases coming within subsection 12. Proviso.

(12) In the case of land situate in any of the Provisional Judicial Districts where the letters patent or a certified copy of the order in council granting the land has been forwarded to the Local Master of Titles for the purpose of registration, and the amount payable into the Assurance Fund is not paid, a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee, and no subsequent transfer or charge of the land or any transmission thereof shall be registered until such assurance fee, namely, a sum equal to one-fourth of one per cent. of the value at the time of payment of the land apart from the buildings or fixtures and one-tenth of one per cent. of the value of the buildings erected on or affixed thereto before the first registration thereof, but not in any case less than one dollar in respect of any parcel, is paid. R.S.O. 1897, c. 138, s. 171 (2); 6 Edw. VII., c. 19, s. 20 (2). *Amended.*

(13) Where land is sold for taxes, or upon the winding up of a company, or under execution, or under the order of a Court, the Master may register the new immediate ownership subject to such charge, and where part of a parcel is so sold or is expropriated he may, upon proof of payment of the proportion of such assurance fund charge which he deems to be fairly attributable to the part so sold or expropriated, note in the register the fact of such payment in respect of the land so sold or expropriated, and enter that part as free of the charge.

(14) Where land exceeding 400 acres is entered in one parcel the Master, upon a transfer of part of such parcel, may, in like manner, allow payment of a proportionate part of the assurance fees and enter the part transferred free of the charge. 3 Edw. VII., c. 12, s. 6, *amended;* 7 Edw. VII., c. 30, s. 21, *amended.*

124.—(1) Any person wrongfully deprived of land, or of some estate or interest therein, by reason of the land being brought under this Act, or by reason of some other person being registered as owner through fraud or by reason of any misdescription, omission or other error in any certificate of ownership or charge, or in any entry on the register, shall be entitled to recover what is just, by way of compensation Remedy of person wrongfully deprived of land.

or damages, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error. R.S.O. 1897, c. 138, s. 132 (1); 7 Edw. VII., c. 30, s. 18.

(2) Subsection 1 shall not render liable any purchaser or mortgagee in good faith for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error, or having derived title from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise.

(3) If the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he shall be entitled to have the same paid out of the assurance fund, so far as the fund may be sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived; or, in the case of a person under the disability of infancy, lunacy or unsoundness of mind, within six years from the date at which the disability ceased.

(4) The liability of the fund for compensation and the amount of compensation shall, subject to appeal as in other cases, be determined by the Inspector, unless the Court or the Inspector on application directs some other way of ascertaining and determining the same.

(5) The costs of the proceedings shall be in the discretion of the Court or of the Inspector.

(6) Any sum paid out of the assurance fund may afterwards for the benefit of the fund be recovered by action in the name of the Inspector, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error or from his estate and the Inspector's certificate of the payment out of the assurance fund shall be sufficient proof of the debt, but where the erroneous registration was made or the title acquired by mere error and without fraud, credit shall be given for any sum which such person may have paid into the assurance fund in respect of such land. R.S.O 1897, c. 138, s. 132 (2-5). *Amended.*

Imp. Act, 60-61 V., c. 65, s. 7 (2).

(7) Where a registered disposition would, if unregistered, be absolutely void, or where the effect of the error would be to deprive a person of land of which he is in possession, or in receipt of the rents and profits, the Inspector may in the first instance or after a reference to the Court

direct the rectification of the register, and in case of such rectification the person suffering by the rectification shall be entitled to the compensation provided for by this section. 7 Edw. VII., c. 30, s. 17. Rectification of register.

125.—(1) Where any person makes a claim upon the assurance fund for compensation in respect of land patented as mining land or in respect of any land the chief value of which consists in the ores, mines or minerals therein and it appears that such person is entitled to recover in respect of such land or of some interest therein, in determining the amount of compensation to be paid to such person the entire value of the land shall not be taken at a greater sum than eight hundred times the amount of the fees paid into the assurance fund in respect of the land, either in the first instance or under the provisions of section 126. Valuation of mining lands where compensation claimed out of assurance fund.

(2) Where such fees or some part thereof were paid into the fund in respect of other land in addition to that for which a claim is so made without it appearang what amount was paid in respect of the particular parcel of land with reference to which the claim is made, the fees so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial contents of the whole parcel or of the various parcels in respect of which the fees were paid. R.S.O. 1897, c. 138, s. 133.

126.—(1) Where any person taking a transfer or charge of any land coming within the provisions of the next preceding section is of the opinion that a value to be determined under such section would not furnish a fair basis for compensation in case of loss he may with the privity of the proper Master of Titles pay into Court to the credit of the assurance fund such further sum as shall with the amount previously paid into the assurance fund in respect of such land make up one-fourth of one per cent. of the value of the land at the time of making the payment, such value to be determined in the manner provided by section 123. Additional payments into fund by transferee, etc.

(2) No such additional payment shall be made except by special leave of the Master, unless the same is made within three months after the registration of the transfer or charge under which such person claims.

(3) No such payment shall affect the valuation of the land where the error which gives the right to compensation was committed before such payment was made. R.S.O. 1897, c. 138, s. 134.

Entry to be made of additional payment.

(4) Where any additional payment is made under this section, the Master shall enter a memorandum of the particulars thereof in the margin of the entry of ownership, and shall in such entry show the total amount which has been paid into the fund in respect of such land. R.S.O. 1897, c. 138, s. 135.

No claim to compensation from assurance fund.

127.—(1) No person shall be entitled to recover out of the assurance fund any compensation where

When person first registered could have conveyed good title to purchaser for value without notice.

Proviso.

New Zealand Act, No. 57, 1885, s. 53.

(*a*) The claim is founded upon a right existing at the time of the first registration of the land and the state of the title of the land at that time was such that the person who was first registered, or the person on whose nomination or authorization such registration was made by a duly registered conveyance could have conferred, as against the claimant, a valid title to a purchaser in good faith for valuable consideration without notice of any defect in the title; and no sufficient caution had been registered and was in force when the application for first registration was made or a patent was forwarded for registration and the proper Master of Titles had not actual notice of the defect prior to the first registration;

Where claimant had notice of registration proceedings.

(*b*) The claimant by direction of the Master or in accordance with the practice of the office had been served with a notice of the proceedings being had in the office, whether such proceedings were prior or subsequent to first registration and failed to appear in accordance with the requirements of the notice; or if the Master had adjudicated against him and he had failed to prosecute successfully an appeal against the Master's decision;

Where claimant's negligence has caused loss.

Imp. Act, 60-6 V., c. 65, s. 7, subs. 3.

(*c*) The claimant has caused or substantially contributed to the loss by his act, neglect or default and the omission to register a sufficient caution, notice, inhibition or restriction to protect a mortgage by deposit or other equitable interest or any unregistered right, or other equitable interest or any unregistered interest or equity created under section 68 or otherwise shall be deemed neglect within the meaning of this clause.

(2) In this section "Claimant" shall include the person actually making the claim and any person through whom

he claims who he alleges was wrongfully deprived of land or of some estate or interest therein. 3 Edw. VII., c. 12, s. 1.

128.—(1) The Treasurer of Ontario on receipt of the money paid to him under subsection 5 of section 123 shall issue to the Accountant of the Supreme Court in trust, Ontario Government Stock to an amount equal to the sum so received, and such stock shall represent the assurance fund and be available for the same purposes.

(2) The stock shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer as the Lieutenant-Governor in Council may deem advisable, and shall bear interest at the rate of two and one-half per centum per annum.

(3) The stock, together with the interest thereon shall be charged upon and paid out of the Consolidated Revenue Fund.

(4) All sums which become payable out of the assurance fund shall to the extent, but not exceeding the amount, of such fund be paid by the Treasurer of Ontario to the persons entitled thereto, out of the Consolidated Revenue Fund, on the production of an order of the Court or a Judge authorizing or directing the payment to be made or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly. 10 Edw. VII., c. 61, s. 1, *part*.

WITHDRAWING LAND FROM THE REGISTRY.

Application to withdraw registered land.

129.—(1) Where, after land has been registered, special circumstances appear, or subsequently arise, which make it inexpedient that the land should continue under this Act, the owner may apply in the prescribed manner to the proper Master of Titles for the withdrawal of the land from the Act.

Certificate by Master.

(2) If the owner proves before the Master that all persons interested in the land proposed to be withdrawn, consent to its withdrawal, and satisfies the Master that special circumstances exist which render the withdrawal of such land or a part thereof expedient, the Master may issue his certificate describing the land or such part thereof as the consent covers and as the Master deems proper, in such a manner that the certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued this Act shall

cease to apply to the land described therein, and the land shall thereafter be subject to the ordinary laws relating to real estate and to the registry laws.

Application of section.

(3) The certificate of a Local Master under this section shall not be valid unless approved and countersigned by the Inspector.

Registration of certificate.

(4) Upon the production of the certificate to the registrar of deeds and payment of a fee of $1, the same shall be duly registered. R.S.O. 1897, c. 138, s. 136.

(5) This section shall not apply to land registered under section 159.

ADMINISTRATION AND MISCELLANEOUS.

Office of Land Registry.

Seal of office.
Imp. 38 & 39 V., c. 87, s. 107.

130. There shall be a seal for every office of Land Titles. R.S.O. 1897, c. 138, s. 137.

Master to frame and promulgate form.
Imp. 38 & 39 V., c. 108.

131. The Inspector shall prepare and cause to be printed and promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. R.S.O. 1897, c. 138, s. 138.

Administration of oaths.
10 Edw. VII., c. 60.

132. The proper Master of Titles, or any officer of the office of Land Titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath for any of the purposes of this Act. R.S.O. 1897, c. 138, s. 139.

Depositions taken before special examiners may be used before Master of Titles.

133.—(1) The proper Master of Titles in any application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the Court, who may administer the requisite oath to any person whose deposition or cross-examination the Master has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the Master may be taken down by a sworn shorthand writer if the examining party so desires. R.S.O. 1897, c. 138, s. 140.

(2) The Master may name the witnesses to be examined or he may request the examiner to take the examination of all witnesses produced by any named person or persons or of any class of witnesses. *New.*

134.—(1) The proper Master of Titles, by summons under the seal of his office, may require the attendance of all such persons as he may think fit in any application made to him and may in the summons require any person to produce for inspection any document, deed, instrument or evidence of title to the production of which the applicant or any trustee for him is entitled. R.S.O. 1897, c. 138, s. 141 (1); 2 Edw. VII., c. 19, s. 3.

Power of Master to summon witnesses. Imp. 38 & 39 V., c. 109.

(2) He may also, by a like summons, require any person having the custody of any map, plan, or book made or kept in pursuance of any Statute to produce such map, plan, or book for his inspection.

(3) He may examine upon oath any person appearing before him; and he may allow to every person summoned by him reasonable charges for his attendance.

(4) Any charges allowed by the Master under this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

(5) If any person disobeys any order of the Master made under this section, the Master may certify such disobedience to the Court; and thereupon such person may be punished by the Court in the same manner as if the order were the order of the Court. R.S.O. 1897, c. 138, s. 141 (2-5).

(6) If any person, after the delivery to him of the summons, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons or to produce such map, deed, instrument, evidence of title, plan, book, or other document or to answer upon oath or otherwise such questions as may be lawfully put to him by the Master, he shall incur a penalty not exceeding $50, recoverable under *The Ontario Summary Convictions Act.*

Non-attendance or refusal to answer questions. Imp. 38 & 39 V., c. 87, s. 110. 10 Edw. VII., c. 37.

(7) No person shall be required to attend in obedience to any summons, or to produce documents unless the fees and allowances for his attendance in accordance with the tariff of the Court are paid or tendered to him. R.S.O. 1897, c. 138, s. 142.

135. The treasurer of the proper municipality upon payment of the fee prescribed by section 130 of *The Assessment Act,* shall furnish to any person requiring the same in respect of land registered or with reference to which an application for registration is pending, a certificate of payment of taxes, charges, rates and assessments, in the prescribed

Certificates as to taxes. 4 Edw. VII., c. 23.

form, or as nearly corresponding thereto as the information given by his books of office will allow, and the certificate shall be binding upon the municipality. R.S.O. 1897, c. 138, s. 143.

Appointment of deputy of Master.

136.—(1) In case of the illness or absence of the Master of Titles or of a Local Master, or for any other cause, the Lieutenant-Governor in Council may appoint a person to act as the Deputy *pro tempore* of the Master or Local Master, and such Deputy, while so acting, shall have all the powers of the Master or Local Master for whom he is appointed Deputy.

(2) A person may be appointed under this section who shall have power to act from time to time. R.S.O. 1897, c. 138, s. 144. *Amended.*

(3) In case of the death of a Master the deputy may act until his authority is revoked or a Master is appointed and assumes the duties of his office. *New.*

Right to Inspect Registry.

Right to inspect documents. Imp. 38 & 39 V., c. 87, s. 104.

137. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any person registered as owner of any land or charge, and any person authorized by any such owner, or by an order of the Court, or by general rule, but no other person, may inspect and make copies of and extracts from any document in the custody of the proper Master of Titles relating to such land or charge. R.S.O. 1897, c. 138, s. 150.

Rules.

Power to make general rules. Rev. Stat. c. 51. Imp. 38 & 39 V., c. 87, s. 111.

138. The Lieutenant-Governor in Council, or the Judges of the Supreme Court, under the authority of sections 122 and 125 of *The Judicature Act*, which are to be read as applying to this Act, may make General Rules in respect of the following matters,

(*a*) The mode in which the register is to be made and kept;

(*b*) The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;

(*c*) The custody of any instruments coming into an office of land titles, with power to direct the destruction of any of them where they have become altogether superseded by entries on the register or have ceased to have any effect;

(*d*) The duties which are to be performed by the Master of Titles, the Local Masters and other officers employed; and what acts of the Master may be done by other officers;

(*e*) The costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, percentage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient;

(*f*) The taxation of such costs and the persons by whom such costs are to be paid;

(*g*) Any matter by this Act directed or authorized to be prescribed;

(*h*) Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be deemed expedient to make rules for the purpose of carrying this Act into execution. R.S.O. 1897, c. 138, s. 152.

(2) Rules may be made in like manner with respect to the amount of fees payable under this Act, and regard may be had to the following matters: R.S.O. 1897, c. 138, s. 152. Rules respecting fees. Imp. 38 & 39 V., c. 87, s. 112.

(*a*) In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land, as determined by the amount of purchase money; or to the value of it, to be ascertained in such manner as may be prescribed;

(*b*) In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge. R.S.O. 1897, c. 138, s. 154.

139.—(1) Subject to the rules, the fees payable in respect of such business as is analogous to the business under *The* Fees.

10 Edw. VII., c. 60.

Registry Act, shall be the same as the fees payable to the Registrar under that Act; and all other fees and costs, whether in respect of business done by the Master of Titles, Local Master of Titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in like proceedings in the High Court.

Stamps to be affixed to registered transfer or charge.

(2) The stamps for all fees payable on a certificate of ownership or a certificate of charge shall be affixed to the registered transfer or charge and not to the certificate, and all stamps payable in respect of registration shall be affixed to the instruments registered and not to the entry on the register. R.S.O. 1897, c. 138, s. 155.

Appeals.

Appeals from Master.

140. Except as provided by section 110, an appeal shall lie from any act, order, or decision of the Master of Titles or a Local Master of Titles under this Act to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 157.

Appeal from High Court.

Imp. 38 & 39 V., c. 87, s. 117.

141. Any person affected by an order made under this Act by the High Court may appeal therefrom to the Court of Appeal within the prescribed time, and subject to the rules in like manner as in the case of an appeal from a Divisional Court of the High Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 158.

Errors in Proceedings.

Proceedings not void for want of form.

142. No application, order, affidavit, certificate, registration or other proceedings shall be invalid by reason of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 138, s. 159.

Oath of Office and Security by Officers.

Oath of office.

143.—(1) The Master of Titles, before he enters upon the duties of his office, shall take and subscribe before a Judge of the Supreme Court the oath of office in the form following:—

I, *A.B.*, do solemnly swear that I will faithfully, and to the best of my ability, perform the duties of the office of Master of Titles.

R.S.O. 1897, c. 138, s. 145.

(2) Every Local Master of Titles and every Deputy of the Master of Titles or of a Local Master, before he enters

upon the duties of his office, shall take and subscribe an oath of office similar to that required to be taken by the Master of Titles. *New.*

(3) In the case of a Local Master or of a Deputy of a Local Master, the oath may be taken before a Judge of the County or District Court. *New.*

(4) The oaths of office shall be transmitted to the Provincial Secretary. *New.*

Bond of Master.

144. Before the Master of Titles or a Local Master of Titles enters upon the duties of his office, he shall furnish security in accordance with the provisions of *The Public Officers' Act.* R.S.O. 1897, c. 138, s. 146. 9 Edw. VII., c. 5.

Masters or Officers not to Act as Agents for Investors.

Master, etc., not to act as agent, etc., of investors.

145.—(1) No Master of Titles, officer or clerk appointed under this Act, shall, directly or indirectly, act as the agent of any corporation, society, company, or person investing money and taking securities on land, or advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer or carry on or transact within the office any business or occupation other than his duties as such Master, officer or clerk, or as holder of some other office under the Government of Ontario.

(2) This section shall apply to every Local Master, but as applied to him, and the officers and clerks in his office, the word "land" shall mean land within the county, city, town or district for which he is Local Master. R.S.O. 1897, c. 138, s. 149.

EXTENSION OF ACT TO OTHER LOCALITIES AND EXPENSES.

Adoption of Act by municipality.

146.—(1) The municipal council of a county, or of a city or town separated from the county for municipal purposes, may pass a by-law declaring it expedient that the provisions of this Act be extended to the county, city or town.

County of York, City of Toronto and other places where Act in force to supply accommodation, etc.

(2) The municipal corporations of the County of York and City of Toronto and of any county, city or town which has passed or shall pass a by-law under subsection 1, shall provide proper fire-proof and other accommodation for an office of Land Titles; and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salary of the Master of Titles of the locality, and all necessary and pro-

per books, stationery, furniture, and lighting, cleaning and heating of the office, and attendance, and other matters and things incident to the proper conduct of the business of the office.

(3) Where this Act is extended to a county which includes a city or town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act, in such proportions as may be determined by arbitration under *The Municipal Act,* in case the councils interested do not agree in respect thereto. R.S.O. 1897, c. 138, s. 160.

3 Edw. VII., c. 19.

Proclamation extending Act to municipality.

(4) Where such a by-law has been passed, and proper accommodation has been provided either in connection with the registry office or at some other convenient place, to the satisfaction of the Inspector, and approved by the Lieutenant-Governor in Council, the Lieutenant-Governor may, by his proclamation, extend the operation of this Act to such county, city, or town, from a day to be named in the proclamation.

(5) The fact of the conditions precedent to the issue of such proclamation having been performed shall be conclusively established by the issue of the proclamation. R.S.O. 1897, c. 138, s. 161.

Extension of application of Act on petition of owners.

147.—(1) Where not less than twenty ratepayers of any county in which is situate a city or a town to which the provisions of this Act have been extended, who are owners of land situate in such county of the aggregate assessed value of $400,000, petition the Lieutenant-Governor in Council for the issue of a proclamation extending the provisions of this Act to the county, and the Lieutenant-Governor in Council declares that it is expedient that the same should be so extended, the provisions of section 146 shall apply to such county as fully as they would have been applicable had a by-law been passed by the council of the county.

(2) In the cases provided for by subsection 1, the Local Master shall not be entitled to be paid a salary, unless the county council passes a resolution for the payment to him of a salary to be provided by the county, but such Local Master shall be entitled to retain for his own use the fees collected upon proceedings in his office.

(3) All costs and expenses incurred in introducing the Land Titles system into the county, or incurred during one year thereafter in connection therewith, shall be paid by the petitioners.

(4) The owners of land which is assessed as land of non-residents shall be deemed ratepayers within the meaning of this section. 7 Edw. VII. c. 30, s. 19.

Surplus fees under 10 Edw. VII., c. 60, to be applied in defraying expenses of Land Titles Office.

148.—Where this Act applies to a county, city or town entitled to receive money under sections 101 and 102 of *The Registry Act,* the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the Master and other expenses of the office, the money payable either directly or indirectly, to the county, city, or town under that Act, and the Treasurer shall pay the balance to the county, city or town; and if the amount so paid to the Treasurer is not sufficient, the residue, or if nothing is payable by the registrar, the whole of such salary and expenses shall be made good to the Province by the corporation of the county, city or town. R.S.O. 1897, c. 138, s. 162. *Amended.*

LOCAL MASTERS OF TITLES.

Local Masters of Titles *ex-officio.* 10 Edw. VII., c. 59.

149.—(1) Where at the time of the issue of a proclamation under section 146 there is a Referee of Titles under *The Quieting Titles' Act,* residing in the locality, such referee shall *ex-officio* be the first Local Master of Titles therefor, unless he practises as a barrister or solicitor, or is a Judge of the County Court, and he shall hold the office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1897, c. 138, s. 163.

Appointment of Local Masters.

(2) Subject to the provisions of subsection 1, the Lieutenant-Governor in Council may appoint a Master of Titles for any locality in which this Act is in force, to be styled "The Local Master of Titles" for the county, city, town or district, as the case may be, who shall hold office during pleasure.

Qualification.

(3) The person appointed may, in the discretion of the Lieutenant-Governor in Council, be a Judge of a County or District Court, a barrister or solicitor, whether practising or not, or a registrar. R.S.O. 1897, c. 138, s. 164 (1, 2).

Salary.

(4) The Local Master of Titles shall be paid by salary or fees for his services in that capacity, such salary to be fixed by the Lieutenant-Governor in Council from time to time, with reference to the amount or probable amount of the business, on the report of the Inspector.

Rev. Stat. c. 51.

(5) The Order in Council shall be laid before the Assembly, as provided in respect of Orders in Council under section 187 of *The Judicature Act.* R.S.O. 1897, c. 138, s. 164 (3); 2 Edw. VII. c. 19, s. 4.

Commutation of fees of Registrar or Local Master of Titles.

(6) The Lieutenant-Governor in Council may commute the fees payable to a Registrar of Deeds or Local Master of Titles, in any county or district whether both offices are held by one officer or otherwise for a fixed sum each year, provided that such sum shall not exceed the income which such Registrar or Local Master would have derived from fees during such year, and the fees so commuted shall on or before the 15th day of January in each year be paid over to the Treasurer of the Province in the case of a district for the use of the Province, and in the case of a county or city shall be subject to such division between such county or city and the Province as the Lieutenant-Governor in Council may direct.

(7) Where such Registrar or Local Master holds office for part of a year, he or his executors or administrators shall be entitled to the just proportion of such commuted fixed sum. 10 Edw. VII. c. 26, s. 36.

DUTIES AND POWERS OF LOCAL MASTERS.

Master's authority and duties.

150. Except where otherwise provided by this Act, every Local Master of Titles, in respect to land situate within the territory for which he is appointed, shall have all the authority of and perform all the duties which, in the County of York, are performed by the Master of Titles, subject to appeal in the same manner. R.S.O. 1897, c. 138, s. 165.

First Registration.

Local Master to transmit title deeds, etc., to Inspector.

151.—(1) If, upon an application for first registration, the Local Master of Titles finds that the applicant, or his nominee, is entitled to be registered, he shall sign a memorandum to that effect at the foot of the application, and shall transmit the same to the Inspector, with the deeds, evidence, and other papers before him, and a draft of the entry of ownership proposed to be made.

Proceedings where Inspector concurs in Master's finding.

(2) If the Inspector concurs in the opinion of the Local Master, he shall approve thereof and shall return the papers transmitted to him, and the Local Master may thereupon register the applicant, or his nominee, as owner.

Proceedings where Inspector does not concur.

(3) If the Inspector does not concur in the opinion of the Local Master, he shall communicate his opinion to the Local Master and shall cause such action to be taken as he deems expedient, and if his objections are not removed by

explanations or additional evidence, the applicant or his nominee shall not be registered, unless the Court on appeal, or on a case stated for its opinion, otherwise directs.

Stay of proceedings in case appeal desired.

(4) If there is a contest upon the decision of the Inspector concurring in the Local Master's opinion, registration shall be delayed for ten days to enable anyone who so desires to appeal. R.S.O. 1897, c. 138, s. 166.

Applications for first registration in districts.

152.—(1) Until an Inspector is appointed, applications for first registration in the Provisional Judical Districts not coming within sections 159, 160 and 162 shall be made to the Master of Titles and not to the Local Master for the district, and upon the Master of Titles finding that an applicant is entitled to be registered he shall issue his certificate to that effect to the Local Master who shall thereupon register the land in accordance with the terms of such certificate. 3 Edw. VII. c. 12, s. 7; 7 Edw. VII. c. 30, s. 23. *Amended.*

153. Sections 151 and 152 shall not apply to applications coming within sections 159, 160 and 162, or to applications for a possessory title, or for the registration of leasehold land where the freehold or other estate out of which the lease is derived is registered land, or where a declaration of the title of the lessor to grant the lease is not required. 7 Edw. VII. c. 30, s. 23. *Amended.*

Duty of registrar of district when required to forward documents of title to Master.

154.—(1) Where an application is made under section 152 the Master of Titles may request the registrar of the registry division in which the land lies to transmit by registered post, or by express, any instrument appearing on the abstract, or required in connection with the application, which the Master desires to examine.

(2) The registrar shall comply with such request and shall, with such documents, send a list of all the documents transmitted and shall retain a copy of the list.

(3) The Master shall return the documents, as soon as practicable, by registered post or by express, sending therewith to the registrar a list of all the documents so returned and keeping a copy of the list.

(4) The registrar, in addition to his usual fees for the production of a document, shall be entitled to an additional fee of 10 cents for each document transmitted as compensation for his trouble in respect of such transmission, the preparation of the list and returning the documents to their proper files. 3 Edw. VII. c. 12, s. 8. *Amended.*

Subsequent Registration.

Submission of case to Inspector where Master in doubt.

155. If on the application for the registration of an instrument after a first registration or for the registration of a transmission, the Local Master of Titles is unable to come to a clear conclusion as to the action which he should take, he shall delay making the required entry until he has stated the facts to the Inspector for his opinion and in submitting the case the Local Master shall state his own view and his reasons therefor. R.S.O. 1897, c. 138, s. 167.

INSPECTOR OF OFFICES OF LAND TITLES.

Appointment of Inspector.

156.—(1) The Lieutenant-Governor in Council may appoint an officer, to be called "The Inspector of Land Titles' Offices." R.S.O. 1897, c. 138, s. 168 (1); 7 Edw. VII. c. 30, s. 20.

Duties.

10 Edw. VII., cc. 59 and 60.

(2) The Inspector shall, subject to the rules, have the like powers and duties as an Inspector under *The Quieting Titles' Act*, and as an Inspector under *The Registry Act*, respectively, and such other duties as may be required of him by the rules, or as he may be required by the Lieutenant-Governor in Council to perform.

Salary.

(3) The salary of the Inspector, his travelling expenses, and all expenses of and incidental to his office, shall be paid by the Province, and shall be repaid to the Treasurer of Ontario by the corporations of the localities in which this Act is from time to time in operation, in such proportions as after a report from the Inspector the Lieutenant-Governor in Council may determine. R.S.O. 1897, c. 138, s. 168. *Part.*

Performance of duties until Inspector appointed.

157. Until an Inspector is appointed, the duties of the Inspector shall be performed by the Master of Titles, or by some other person authorized by the Lieutenant-Governor in Council, and the expenses of and incidental thereto shall, in like manner as is hereinbefore provided be repaid to the Treasurer. R.S.O. 1897, c. 138, s. 168. *Part.*

Appeal from Inspector.

158. In all matters decided by the Inspector which are of like character as matters over which the Master of Titles has jurisdiction in the County of York, an appeal shall lie from any act, order or decision of the Inspector to the High Court, and from that Court to the Court of Appeal. R.S.O. 1897, c. 138, s. 168. *Part.*

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

159.—(1) Where any land situate in a Provisional Judicial District is granted by letters patent or by order of the Lieutenant-Governor in Council, the letters patent or a certified copy of the Order in Council shall be forwarded to the Local Master of Titles of the District for the purpose of the grantee being entered as the first registered owner of the land, with any necessary qualifications. Letters Patent or Order-in-Council granting lands in certain districts, registration of.

(2) Subsection 1 shall not apply to land covered with the waters of Lake Huron adjacent to the Great Manitoulin Island, Cockburn Island or Fitzwilliam Island, in the District of Manitoulin, or adjacent to any island which, in whole or in part, lies between headland and headland around such three Islands. 6 Edw. VII. c. 19, s. 20.

(3) It shall not be necessary to issue a notice in respect of a caution or adverse claim which has been lodged, if by the certificate of the Minister or Deputy Minister of Lands, Forests and Mines it appears that the claim in respect of which such caution or adverse claim was lodged was considered by the Minister and disposed of before the issue of the patent; and if before the receipt of such a certificate any proceedings have been taken by a Local Master in respect of such caution or adverse claim, he shall thereupon discontinue the same, and disallow any objection or claim founded thereon, and make such order as to costs as he deems just.

(4) Where there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector before registering the patentee as owner, and shall otherwise proceed as provided in section 151.

(5) Where the cautioner consents to the registration of the patentee the Local Master need not issue any notice on account of such caution.

(6) Letters Patent from the Crown demising land, or mining rights for a term of years, or for any greater estate, granted on or after the 31st day of December, 1887, shall be deemed to have been and to be within the provisions of this section. R.S.O. 1897, c. 138, s. 169 (3-6); 62 V. (1) c. 2, s. 1. *Amended.* Patents demising lands for term of years declared within this section.

160. Where land situate in a Provisional Judicial District has been patented by the Government of Canada the Local Master of Titles shall have authority to register the patentee Registration of Dominion patentees.

as owner of such land and may do so without submitting his finding upon the application to the Inspector for his concurrence. 6 Edw. VII. c. 19, s. 20 (3).

Notice by Master to sheriff.

161.—(1) Upon an entry of ownership being made, the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the land lies of the entry of the patentee as owner.

(2) The notice shall be sent by registered post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution.

(3) The sheriff, upon receipt of the notice, shall forthwith transmit to the Local Master a copy of any execution in his hands affecting the land of the patentee, and if within the fourteen days no copy of an execution against the land of the patentee is received from the sheriff, the Local Master may assume that the land is not subject to any execution and may enter subsequent dealings with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee.

Entry where claim for taxes or copy of execution received.

(4) Where the Local Master receives from the sheriff a copy of an execution affecting the land, an entry thereof shall be made against the land and all dealings with it shall be subject to such execution. R.S.O. 1897, c. 138, s. 172 (1-4); 7 Edw. VII. c. 30, s. 22.

Registration of transferee of patentee.

162.—(1) Where a patent for land is forwarded to a Local Master of Titles under section 159, and it is made to appear to him that the patentee since the date of the patent has transferred the land to some other person, the transferee, or in case of a further transfer or transfers the ultimate tansferee of the land, shall be entered as the first registered owner, and shall be described as the transferee of the patentee or otherwise according to the fact. R.S.O. 1897, c. 138, s. 170.

(2) Before entering a transferee as first registered owner, the Local Master shall require evidence to be produced shewing that there is no execution affecting the land. *New.*

Fees payable to Local Master.

163. Where notices or other proceedings are necessary, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings, and where notices are

not necessary the Local Master shall be entitled to charge his actual disbursements. R.S.O. 1897, c. 138, s. 172 (5, 6). *Amended.*

164. The following Acts and parts of Acts are repealed: chapter 138 of Revised Statutes of Ontario, 1897, chapter 16 of the Acts passed in the 1st year, chapter 19 of the Acts passed in the 2nd year, chapter 12 of the Acts passed in the 3rd year, section 20 of chapter 19 of the Acts passed in the 6th year, chapter 30 of the Acts passed in the 7th year, chapter 38 of the Acts passed in the 8th year, section 15 of chapter 26 of the Acts passed in the 9th year, section 36 of chapter 26, and chapter 61 of the Acts passed in the 10th year of the reign of His late Majesty King Edward VII. Repeal.

165. This Act shall come into force on the *first* day of *September*, 1911.

No. 96.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Simplify Titles and to Facilitate the Transfer of Land.

First Reading, 25th January, 1911.
Second Reading, 31st January, 1911.

(*Reprinted as again amended in Committee of the Whole House.*)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 97. 1911.

BILL

An Act respecting Trustees and Executors and the Administration of Estates.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
RETIREMENT OF TRUSTEES, s. 3.
APPOINTMENT OF NEW TRUSTEES, s. 4.
VESTING INSTRUMENTS, s. 5.
VESTING ORDERS AND ORDERS RELEASING CONTINGENT RIGHTS, AS TO LAND, ss. 6-13.
APPOINTMENT OF PERSONS TO CONVEY, s. 14.
VESTING ORDERS, AND ORDERS RELEASING CONTINGENT RIGHTS, AS TO CHOSES IN ACTION, ss. 15, 16.
TRUSTEES FOR CHARITIES, s. 17.
WHO MAY APPLY FOR APPOINTMENT OF TRUSTEE, OR FOR VESTING ORDER, s. 18.
CERTAIN POWERS AND RIGHTS OF TRUSTEES, ss. 19-26.
PURCHASE AND SALE, ss 19, 20.
AGENTS, s. 21.
INSURANCE, s. 22.
RENEWALS OF LEASES, s. 23.
PASSING OF ACCOUNTS, s. 24.
RECEIPTS, s. 25.
SURVIVING TRUSTEE, s. 26.
INVESTMENTS, ss. 27-33.
PROTECTION AND INDEMNITY, ss. 34, 35.
TECHNICAL BREACHES OF TRUST, s. 36.
PAYMENT INTO COURT, ss. 37, 38.
PROCEDURE ON, s. 38.
PERSONAL REPRESENTATIVES AND DEVISEES IN TRUST, ss. 39-49.
REMOVAL OF, s. 39.
RIGHTS AND LIABILITIES OF, ss. 40-42, 47, 48.
EXECUTION OF POWERS, ss. 43, 44.
CONTRACTS OF DECEASED, s. 45.
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EFFECT OF REVOCATION OF ERRONEOUS GRANT, ss. 50, 51.
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UNDISPOSED OF RESIDUE, s. 58.
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CONVEYANCE OF LAND SOLD FOR DEBTS, ss. 60, 61.
ESTATES OF DECEASED INSOLVENTS, ss. 62-64.
APPLICATION TO COURT FOR ADVICE, s. 65.
ALLOWANCE TO TRUSTEES AND TO PERSONAL REPRESENTATIVES, s. 66.
MISCELLANEOUS, s. 67-72
TRUSTEES BUYING OR SELLING, s. 67.
INDEMNITY, s. 68.
COSTS, s. 69.
APPLICATION OF ACT, ss. 70-72
REPEAL, s. 73.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Trustee Act* R.S.O. 1897, c. 129, s. 1. Short title.

2. In this Act,— Interpretation.

Assign.
Assignment.

(*a*) "Assign" shall mean and include the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring land of which such person is possessed, either for the whole estate of the person so possessed, or for any less estate; and "assignment" shall have a corresponding meaning.

Contingent right.

(*b*) "Contingent right" as applied to land, shall mean and include a contingent and executory interest, and a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility is, or is not, ascertained; also a right of entry, whether immediate or future, vested or contingent.

Convey. Conveyance.

(*c*) "Convey" applied to any person, shall mean and include the execution and delivery by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or wherein he is entitled to a contingent right, either for his whole estate, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance; and "conveyance" shall have a corresponding meaning.

Devisee. Imp. Act, 56-57 Vict. c. 53, s. 50, part

(*d*) "Devisee" shall include the heir of a devisee, and the devisee of an heir, and any person who may claim right by devolution of title of a similar description. R.S.O. 1897, c. 336, s. 2, part. *Amended.*

Instrument. R.S.O. 1897 c. 129, s. 27.

(*e*) "Instrument" shall include a deed, a will and a written document and an Act of the Legislature, but not a judgment or order of a court. (*New.*) *See* R.S.O. 1897, c. 129, s. 27.

Land. 10 Edw. VII. c. 57, s. 2.

(*f*) "Land" shall include messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency.

Lunatic

(*g*) "Lunatic" shall mean any person who has been declared a lunatic. R.S.O. 1897, c. 336, s. 2.

(*h*) "Mortgage" shall be applicable to every estate, interest, or property, in land or personal estate, which is merely a security for money; and "mortgagee" shall have a corresponding meaning and shall include every person deriving title under the original mortgagee. R.S.O. 1897, c. 336, s. 2. Mortgage. Mortgagee. Imp. Act, s. 13-14, Vict. c. 60, s. 2 and 56-57 Vict., c. 53, s. 50.

(*i*) "Person of unsound mind" shall mean any person, not an infant, who, not having been declared a lunatic, is incapable, from infirmity of mind, to manage his own affairs. Person of unsound mind.

(*j*) "Personal Estate" shall include leasehold estates and other chattels real, and also money, shares of Government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate. which by law devolves upon the executor or administrator, and any share or interest therein. Personal estate. 10 Edw. VII c. 57, s. 2.

(*k*) "Personal Representative" shall mean and include an executor, an administrator, and an administrator with the will annexed. *New.* Personal representative.

(*l*) "Possessed" shall be applicable to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in any land. Possessed.

(*m*) "Securities" shall include stocks, funds and shares. Securities.

(*n*) "Seized" shall be applicable to any vested interest for life, or of a greater description, and shall extend to estates, legal and equitable, in possession, or in futurity, in any land. Seized.

(*o*) "Stock" shall include fully paid up shares, and any fund, annuity, or security transferable in books kept by any incorporated bank, company or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein. Stock.

(*p*) "Transfer," in relation to stock, shall include the performance and execution of every deed, power of attorney, act or thing, on the part of the transferor, to effect and complete the title in the transferee. Transfer.

(*q*) "Trust" shall not mean the duties incident to an estate conveyed by way of mortgage; but, with this exception, shall include implied and constructive trusts and cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to, and include, the duties incident to the office of personal representative of a deceased person; and "trustee" shall have a Trust. R.S.O. c. 129, s. 27. Trustee.

corresponding meaning and shall include a trustee however appointed and several joint trustees.

Will.
10 Edw. VII. c. 57, s. 2.

(*r*) "Will" shall include a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants' Act*, and any other testamentary disposition. R.S.O. 1897, c. 336, s. 2, *amended*.

Rev. Stat., c. 168.

RETIREMENT OF TRUSTEES.

Retirement of trustees.
Imp. Act, 56-57 Vict., c. 53, s. 11

3.—(1) Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust, and shall, by the deed, be discharged therefrom under this Act, without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section shall not apply to executors or administrators.

APPOINTMENT OF NEW TRUSTEES.

Power of appointing new trustees.
Imp. Act, 56-57 Vict., c. 53, s. 10.

4.—(1) Where a trustee either original or substituted dies or remains out of Ontario for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, the person nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee may by writing appoint another person or other persons to be a trustee or trustees in the place of the trustee dying, remaining out of Ontario, desiring to be discharged, refusing or being unfit or incapable. R.S.O. 1897, c. 129, s. 4, *amended*.

(2) Whenever it is expedient to appoint a new trustee, or new trustees, and it is found inexpedient, difficult, or impracticable so to do without the assistance of the Court, the High Court may make an order for the appointment of a new trustee, or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee: and in particular, and without prejudice to the generality of the foregoing provision, the Court may make an order for the appointment of a new trustee in substitution for a trustee who is convicted of an indictable offence, or is bankrupt or insolvent. R.S.O. 1897, c. 336, s. 21 (1). Power of the Court to appoint new trustees. Imp. Act, 56-57 Vict., c. 53, s. 25

(3) An order under subsection 2 and any consequential vesting order or conveyance shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under a power for that purpose contained in an instrument would have operated. R.S.O. 1897, c. 336, s. 21 (2).

(4) Nothing in this section shall give power to appoint a personal representative. R.S.O. 1897, c. 336, s. 21 (3).

(5) On the appointment of a new trustee for the whole or any part of trust property: Imp. Act, 56-57 Vict., c. 53, s. 10

(*a*) The number of trustees may be increased; and

(*b*) A separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, nothwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first mentioned part; and

(*c*) It shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this section from his trust unless there will be at least two trustees to perform the trust; and

(*d*) Any assurance or thing requisite for vesting the trust property, or any part thereof, in the person who is the trustee, or jointly in the persons who are the trustees, shall be executed or done.

(6) Every new trustee so appointed, as well before as after all the trust property becomes by law, or by assurance, or otherwise, vested in him, shall have the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

(7) The provisions of this section relative to a trustee who is dead shall include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee shall include a refusing or retiring trustee, if willing to act in the execution of the provisions of this section. *New.*

VESTING INSTRUMENTS.

Vesting of trust property in new or continuing trustees without conveyance.

Imp. Act, 44 and 45 V., c. 41, s. 34.

5.—(1) Where an instrument executed after the first day of July, 1886, by which a new trustee is appointed to perform any trust, contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any personal estate so subject, shall vest in the person or persons who by virtue of such instrument shall become and be the trustee or trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in him, or in them as joint tenants, and for the purposes of the trust, that estate, interest or right.

(2) Where such an instrument by which a retiring trustee is discharged under this Act contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone as joint tenants, and for the purposes of the trust, the estate, interest, or right to which the declaration relates.

(3) This section shall not extend to land conveyed by way of mortgage for securing money subject to the trust, or to any share, stock, annuity, or property transferable only in books kept by a company or other body, or in manner prescribed by or under an Act of Parliament or of the Legislature.

See 56 & 57 Vict. Imp., c. 53, s. 12 (3).

(4) For the purpose of registration, the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act. R.S.O. 1897, c. 129, s. 5, *amended*.

VESTING ORDERS, AND ORDERS RELEASING CONTINGENT RIGHTS, AS TO LAND.

Vesting orders as to, and where Court may make. Imp. Act, 56-57 Vict. c. 53, s. 26.

6. In any of the following cases:—

(i) Where the High Court appoints or has appointed a new trustee; or

(ii) Where a trustee entitled to, or possessed of, any land, or entitled to a contingent right therein, either solely, or jointly with any other person—

(*a*) is an infant, or

(*b*) is out of Ontario, or

(*c*) cannot be found; or

(iii) Where it is uncertain who was the survivor of two or more trustees jointly entitled to, or possessed of any land; or

(iv) Where it is uncertain whether the last trustee known to have been entitled to, or possessed of any land, is living, or dead; or

(v) Where there is no heir, or personal representative of a trustee who was entitled to, or possessed of land and has died intestate as to that land, or where it is uncertain who is the heir, or personal representative, or devisee of a trustee who was entitled to, or possessed of land and is dead; or

(vi) Where a trustee jointly, or solely, entitled to, or possessed of any land, or entitled to a contingent right therein, has been required by, or on behalf of a person entitled to require a conveyance of the land, or a release of the right, to convey the land, or to release the right, and has wilfully refused or neglected to convey the land, or release the right for fourteen days after the date of the requirement;

the High Court may make an order (in this Act called a vesting order) vesting the land in any such person in any such manner, and for any such estate, as the Court may direct, or releasing, or disposing of the contingent right to such person as the Court may direct.

Provided that—

(*a*) Where the order is consequential on the appointment of a new trustee, the land shall be vested, for such estate as the Court may direct, in the persons who, on the appointment, are the trustees; and

(*b*) Where the order relates to a trustee entitled jointly with another person, and such trustee is out of Ontario, or cannot be found, the land or right shall be vested in such other person, either alone, or with some other person. R.S.O. 1897, c. 336, s. 5.

[*For provision as to lunatic trustee or mortgagee, see Lunacy Act, 9 Edw. VII. c. 37, sec. 26.*]

Orders as to contingent rights of unborn persons.

Imp. Act, 56-57 Vict., c. 53, s. 27.

7. Where any land is subject to a contingent right in an unborn person, or a class of unborn persons, who, on coming into existence would, in respect thereof, become entitled to, or possessed of the land on any trust, the High Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which, the unborn person, or class of unborn persons, would, on coming into existence, be entitled, or possessed in the land. R.S.O. 1897, c. 336, s. 8.

Vesting order in place of conveyance by infant mortgagee.

Imp. Act, 56-57 Vict., c. 53, s. 28.

8. Where any person entitled to, or possessed of, land, or entitled to any contingent right in land, by way of security for money, is an infant, the High Court may make an order vesting, or releasing, or disposing of the land or right in like manner as in the case of an infant trustee. R.S.O. 1897, c. 336, s. 9.

Vesting order in place of conveyance by heir or devisee of heir, etc., or personal representative of mortgagee.

Imp. Act, 56-57 Vict., c. 53, s. 29.

9. Where a mortgagee of land has died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of the mortgage has been paid to a person entitled to receive the same, or that last mentioned person consents to an order for the reconveyance of the land the High Court may make an order vesting the land in such person or persons, in such manner, and for such estate as the Court may direct in any of the following cases:—

(*a*) Where an heir, or personal representative, or devisee, of the mortgagee is out of Ontario, or cannot be found; or

(*b*) Where an heir, or personal representative, or devisee of the mortgagee, on demand made by, or on behalf of a person entitled to require a conveyance of the land, has stated in writing that he will not convey the same, or does not convey the same for the space of fourteen days next after a proper deed for conveying the land has been tendered to him by or on behalf of the person so entitled; or

(*c*) Where it is uncertain which of several devisees of the mortgagee was the survivor; or

(*d*) Where it is uncertain, as to the survivor of several devisees of the mortgagee, or as to the heir, or personal representative, of the mortgagee, whether he is living, or dead; or

(*e*) Where there is no heir, or personal representative of a mortgagee who has died intestate as to the land, or where the mortgagee has died and it is uncertain who is his heir, or personal representative, or devisee. R.S.O. 1897, c. 336, s. 10.

Vesting order consequential on judgment for sale, or mortgage of land.

Imp. Act, 56-57 Vict., c. 53, s. 30.

10. Where any court gives a judgment, or makes an order directing the sale, or mortgage of any land, every person who is entitled to or possessed of the land, or entitled to a contingent right therein as heir, or under the will of a deceased person, for payment of whose debts the judgment was given, or order made, and is a party to the action or proceeding in which the judgment, or order, was given, or made, or is otherwise bound by the judgment, or order, shall be deemed to be so entitled, or possessed, as the case may be, as a trustee within the meaning of this Act; and the High Court may make an order vesting the land, or any part thereof, for such estate as that Court thinks fit, in the purchaser, or mortgagee, or in any other person. R.S.O. 1897, c. 336, s. 11.

Vesting order consequential on judgment for specific performance, etc.

Imp. Act, 56-57 Vict., c. 53, s. 31.

11. Where a judgment is given for the specific performance of a contract concerning any land, or for the partition, or sale in lieu of partition, or exchange of any land, or generally, where any judgment is given for the conveyance of any land, either in cases arising out of the doctrine of election, or otherwise, the High Court may declare that any of the parties to the action are trustees of the land, or any part thereof within the meaning of this Act, or may declare that the interests of unborn persons who might claim under any party to the action, or under the will, or voluntary settlement, of any person deceased, who was, during his lifetime a party to the contract or transactions concerning which

the judgment was given, are the interests of persons who, on coming into existence, would be trustees within the meaning of this Act, and thereupon the High Court may make a vesting order relating to the rights of those persons, born and unborn, as if they had been trustees. R.S.O. 1897, c. 336, s. 12.

EFFECT OF VESTING ORDERS OF LAND.

Effect of vesting order.

Imp. Act, 56-57 Vict., c. 53, s. 32.

12. A vesting order under any of the foregoing provisions shall, in the case of a vesting order consequential on the appointment of a new trustee, have the same effect as if the persons who before the appointment were the trustees, if any, had duly executed all proper conveyances of the land for such estate as the High Court directs, or if there is no such person, or no such person of full capacity, then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the land for such estate as the Court directs, and shall in every other case have the same effect as if the trustee, or other person, or description or class of persons, to whose rights or supposed rights such provisions relate, had been an ascertained and existing person of full capacity, and had executed a conveyance or release to the effect intended by the order. R.S.O. 1897, c. 336, s. 13.

Orders made upon certain allegations to be conclusive evidence.

Imp. Act, 56-57 Vict., c. 53, s. 40.

13. Where a vesting order is made as to any land under this Act, founded on an allegation of the personal incapacity of a trustee, or mortgagee, or on an allegation that a trustee, or the heir, or personal representative, or devisee, of a mortgagee is out of Ontario, or cannot be found, or that it is uncertain which of the several trustees, or which of several devisees of a mortgagee was the survivor, or whether the last trustee, or the heir, or personal representative, or last surviving devisee of a mortgagee is living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir, or personal representative, or devisee, the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section shall not prevent the High Court from directing a reconveyance, or the payment of costs occasioned by any such order if improperly obtained. R.S.O. 1897, c. 336, s. 26.

APPOINTMENT OF PERSONS TO CONVEY.

Power to appoint persons to convey.

14. Where a vesting order may be made under any of the foregoing provisions, the High Court may, if it is more convenient, by order appoint a person to convey the land, or release the contingent right, and a conveyance, or release

by that person in conformity with the order shall have the same effect as an order under the appropriate provision. R.S.O. 1897, c. 336, s. 14.

Imp. Act, 56-57 Vict., c. 53, s. 33.

VESTING ORDERS, AND ORDERS RELEASING CONTINGENT RIGHTS, AS TO STOCKS, AND CHOSES IN ACTION.

Vesting orders as to stock and choses in action, when court may make.

Imp. Act, 56-57 Vict., c. 53, s. 35.

15.—(1) In any of the following cases:—

(i) Where the High Court appoints, or has appointed, a new trustee; or

(ii) Where a trustee entitled alone, or jointly with another person, to stock, or to a chose in action—

(*a*) is an infant, or

(*b*) is out of Ontario, or

(*c*) cannot be found, or

(*d*) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for, or recover, a chose in action, according to the direction of the person absolutely entitled thereto, for fourteen days next after a request in writing has been made to him by the person so entitled, or

(*e*) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for, or recover a chose in action for fourteen days next after an order of the High Court for that purpose has been served on him; or

(iii) Where it is uncertain whether a trustee entitled alone, or jointly with another person to stock, or to a chose in action is alive or dead,

the High Court may make an order vesting the right to transfer, or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for, or recover a chose in action, in any such person as the Court may appoint;

Provided that—

(*a*) Where the order is consequential on the appointment by the Court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees; and

(*b*) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last mentioned person either alone, or jointly with any other person whom the Court may appoint.

Appointment of person to transfer.

(2) Where a vesting order may be made under this section, the Court may, if it is more convenient, appoint some proper person to make, or join in making, the transfer.

Transfer, how to be made.

(3) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the Court under this Act may transfer the stock to himself, or any other person, according to the order, and all incorporated banks and all companies shall obey every order made under this section.

After notice of order, no transfer to be made contrary thereto.

(4) After notice in writing of an order under this section it shall not be lawful for any incorporated bank or any company to transfer any stock to which the order relates, or to pay any dividends thereon except in accordance with the order.

Court may make declaration.

(5) The High Court may make declarations and give directions concerning the manner in which the right to any stock, or chose in action, vested under the provisions of this Act, is to be exercised.

Ships, shares in.

Imp. Act, 56-57 Vict., c. 53, s. 35.

(6) The provisions of this Act as to vesting orders shall apply to shares in ships registered under the Acts relating to merchant shipping, as if they were stock. R.S.O. 1897, c. 336, s. 15.

[*For provision as to lunatic trustee or mortgagee, see Lunacy Act, 9 Edw. VII., c. 37, s. 27.*]

EFFECT OF VESTING ORDERS OF CHOSES IN ACTION.

Effect of vesting order.

Imp. Act, 56-57 Vict., c. 53, s. 32.

16. Where any order has been made under the provisions of this Act by the High Court vesting the legal right to sue for, or recover any chose in action, or any interest in respect thereof, in any person, he may carry on, commence and prosecute in his own name any action, or proceeding, for the recovery of such chose in action, in the same manner and with the same rights as the person in whose place he has been appointed. R.S.O. 1897, c. 336, s. 18, *amended.*

TRUSTEES FOR CHARITIES.

17. The High Court may exercise the powers herein conferred for the purpose of vesting any land or personal estate in the trustee of any charity, or society, over which the Court would have jurisdiction upon action duly instituted. R.S.O. 1897, c. 336, s. 27, *amended*.

Court may exercise powers in favour of charities, etc.

Imp. Act, 56-57 Vict., c. 53, s. 39.

WHO MAY APPLY.

18.—(1) An order under this Act for the appointment of a new trustee, or concerning any land or personal estate, subject to a trust, may be made upon the application of any person beneficially interested therein, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof.

Who may apply for appointment of new trustee, or vesting order, etc.

Imp. Act 13 & 14 Vict. c. 60, ss. 37, 40 and 41.

(2) An order concerning any land or personal estate, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by the mortgage.

(3) Any person entitled may apply, upon notice to such persons as he may think proper, for such an order as he may deem himself entitled to.

Application

(4) Upon the hearing of the application the Court may direct a reference to inquire into any facts which require investigation, or may direct the application to stand over to enable fuller evidence to be adduced, or further notice to be served. R.S.O. 1897, c. 336, ss. 22, 23 and 24.

Hearing of petition.

CERTAIN POWERS AND RIGHTS OF TRUSTEES.

Purchase and Sale.

19. Where a trust for sale or a power of sale of land or personal estate is vested in a trustee, he may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to re-sell, without being answerable for any loss. *New*.

Power of trustee for sale to sell by auction, etc.

Imp. Act, 56 & 57 Vict. c. 53, s. 18 part.

Sales by trustees not impeachable on certain grounds. Imp. Act, 51-52 Vict., c. 59, s. 3.

20.—(1) No sale made by a trustee after the 4th day of May, 1891, shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made, were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No such sale shall after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for the sale was made.

(3) No purchaser, upon any such sale, shall make any objection against the title upon this ground. R.S.O. 1897, c. 129, s. 29, *amended.*

Agents.

Power to authorize receipt of money by banker or solicitor.

21.—(1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust.

Imp. Act, 56-57 Vict., c. 53, s. 17.

(2) A trustee may appoint a banker or solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance or otherwise.

(3) A trustee shall not be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment.

(4) Nothing in this section shall exempt a trustee from any liability which he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor to pay or transfer the same to the trustee.

(5) This section shall apply only where the money or valuable consideration or property was or is received on or after the 4th day of May, 1891. R.S.O. 1897, c. 129, s. 28, *amended.*

Insurance.

Power to insure building.

22.—(1) A trustee may insure against loss or damage by fire, tempest or other casualty any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three-fourths of the value of such building or property, and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income.

Imp. Act, 56-57 Vict., c. 53, s. 18.

(2) This section does not apply to any building or property which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so. R.S.O. 1897, c. 129, s. 31, *amended.*

Renewals of Leases.

Power of trustees of renewable leaseholds to renew and raise money for the purpose.

23.—(1) A trustee of any leaseholds for lives or years which are renewable from time to time may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future, or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same land on reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do all such other acts as are requisite; Provided that, where by the terms of the settlement or will the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section shall not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

Imp. Act, 56 & 57 Vict. c. 53, s. 19.

(2) If money is required to pay for the renewal, the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the land to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose, he may raise the money required by mortgage of the land to be comprised in the renewed lease, or of any other land for the time being subject to the uses or trusts to which that land is subject, and no person advancing money upon a mortgage purporting to be made under this power shall be bound to see that the money is wanted, or that no more is raised than is wanted for the purpose. *New.*

Passing of Accounts.

When trustee may file accounts.

24. A trustee desiring to pass the accounts of his dealings with the trust estate may file his accounts in the office of the Surrogate Court of a county or district in which he or a co-trustee is resident or in which any part of the trust estate is situate, and the proceedings and practice upon the passing of such accounts shall be the same and have the like effect as the passing of executors' or administrators' accounts in the Surrogate Court; Provided, however, that in the case of trustees under a will the accounts shall be filed and passed in the office of the Surrogate Court by which probate of the will was granted. 63 V. c. 17, s. 18 (1); 3 Edw. VII. c. 7, s. 26, *amended.*

Receipts.

Receipts of trustees to be effectual discharges.

25. The payment of any money to and the receipt thereof by any person to whom the same is payable upon any trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof. R.S.O. 1897, s. 129, s. 9, *amended.* [*See also Cap. 121, sec 14.*]

Surviving Trustee.

Powers of two or more trustees.

Imp. Act, 56 & 57 Vict. c. 53, s. 22.

26. Where a power or trust is hereafter given to or vested in two or more trustees jointly, it may be exercised or performed by the survivor or survivors of them for the time being. *New.*

INVESTMENTS.

Trustees or executors may invest trust moneys in certain securities.

Imp. Act, 23-24 Vict., c. 145, s. 25

27.—(1) A trustee having money in his hands, which it is his duty, or which it is in his discretion, to invest at interest, may invest the same in the stock, debentures or securities of the Dominion of Canada, or of Ontario or of any of the other Provinces of Canada or in debentures or securities the payment of which is guaranteed by the Dominion of Canada or by Ontario or by any of the other Provinces of Canada or in the debentures of any municipal corporation in Ontario, including debentures issued for public school purposes; or in securities which are a first charge on land held in fee simple in Ontario, Manitoba, Saskatchewan or Alberta, provided that such investments are in other respects reasonable and proper.

(2) Subject to the proviso in subsection 1, any money already invested in any such stock, debentures or securities shall be deemed to have been lawfully and properly invested. R.S.O. 1897, c. 130, s. 2 (1); 63 V. c. 18, s. 1; 7 Edw. VII. c. 23, s. 2; 9 Edw. VII. c. 59, s. 4. Existing investments legalized.

28.—(1) A trustee may deposit money with any of the societies or companies hereinafter mentioned, or may invest any money, which it is his duty, or which it is in his discretion to invest at interest, in terminable debentures or debenture stock of any such society or company, provided that such deposit or investment is in other respects reasonable and proper, and that the debentures are registered, and are transferable only on the books of the society or company in his name as trustee for the particular trust estate for which they are held, and that the deposit account in the society's or company's ledger is in the name of the trustee for the particular trust estate for which it is held and the deposit receipt or pass book is not transferable by endorsement or otherwise. 7 Edw. VII. c. 28, s. 1. 9 Edw. VII. c. 59, s. 5 (1) *amended.* Investment of trust funds.

(*a*) Any incorporated society or company authorized to lend money upon mortgages on real estate, or for that purpose and other purposes, having a capitalized, fixed, paid up and permanent stock not liable to be withdrawn therefrom of not less than $400,000, and a reserve fund of not less than 25 per cent. of its paid up capital, and the stock of which has a market value of not less than 7 per cent. premium. R.S.O. 1897, c. 130, s. 5 (1), cl. *a*; 62 V. (2), c. 11, s. 32; 1 Edw. VII. c. 14, s. 1; 9 Edw. VII. c. 59, s. 5 (1) (*a*).

(*b*) Any society or company heretofore incorporated under Chapter 164 of the Revised Statutes of Ontario, 1877, or any Act incorporated therewith, or under Chapter 169 of the Revised Statutes of Ontario, 1887, having a capitalized, fixed, paid up, and permanent stock not liable to be withdrawn therefrom of not less than $200,000, and a reserve fund of not less than 15 per cent. of its paid up capital, and the stock of which has a market value of not less than 7 per cent. premium. R.S.O. 1897, c. 130, s. 5 (1) cl. *b*; 62 V. (2), c. 11, s. 32; 3 Edw. VII. c. 7, s. 25. 9 Edw. VII. c. 59, s. 5, (1), (*b*).

Companies in which funds invested to be approved by Lieutenant-Governor.

(2) Clause (*a*) shall not apply to any society or company which has not the approval of the Lieutenant-Governor in Council as one coming within the provisions of that clause, and as one in the debentures or debenture stock of which trustees may invest or with which they may deposit money. 9 Edw. VII. c. 59, s. 5 (2-3).

Investments in other companies prohibited.

(3) Such approval shall not be given with respect to any society or company which does not appear to have kept strictly within its legal powers as to borrowing and investing. R.S.O. 1897, c. 130, s. 6, *amended.* 9 Edw. VII. c. 59, s. 5 (2-3).

Revocation of Order in Council approving of investments.

(4) An Order in Council made under the authority of subsection 2 may at any time be revoked. R.S.O. 1897, c. 130, s. 7, *amended.* 9 Edw. VII. c. 59, s. 5.

Power to vary or transpose securities.

29. A trustee may from time to time vary or transpose any securities in which money in his hands is invested whether under the authority of this Act or otherwise into or for any other securities of any nature authorized by this Act. *See* R.S.O. 1897, c. 130, s. 5 (2). 9 Edw. VII. c. 59, s. 6.

When trustee not chargeable for lending on insufficient security.

Imp. Act, 51-52 Vict., c. 59, s. 4.

30. A trustee lending money upon the security of any property upon which he may lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed one-half of the value of the property as stated in the report and that it was made under the advice of the valuator expressed in the report. R.S.O. 1897, c. 130, s. 8 (1). 9 Edw. VII. c. 59, s. 7.

Trustee lending more than authorized amount.

Imp. Act, 51-52 Vict., c. 59, s. 5.

31. Where a trustee has improperly advanced money on a mortgage security which would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced, the security shall be deemed an authorized investment for such less sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest. R.S.O. 1897, c. 130, s. 9 (1). 9 Edw. VII. c. 59, s. 8.

32. Sections 30 and 31 shall apply to transfers of existing securities as well as to new securities, and to investments made as well before as on and after the 4th day of May, 1891, unless some action or other proceeding was pending with reference thereto at that date. R.S.O. 1897, c. 130, s. 8 (2). 9 Edw. VII c. 59, s. 9. Application of secs. 30 and 31.

33. A trustee shall not be chargeable with breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the instrument of trust or by the general law; and this provision shall apply to cases arising either before or after the passing of this Act. 63 V. c. 18, s. 2. 9 Edw. VII. c. 59, s. 9. Liability in case of change of character of investment. Imp. Act, 57 Vict., c. 10, s. 4.

PROTECTION AND INDEMNITY.

34. A trustee shall be chargeable only for money and securities actually received by him notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects, or defaults, and not for those of any other trustee, nor for any banker, broker, or other person with whom any trust moneys, or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default; and may reimburse himself or pay or discharge out of the trust property, all expenses incurred in or about the execution of his trust or powers. *See* R.S.O. c. 129, s. 3. Implied indemnity of trustees. Imp. Act, 56-57 Vict., c. 53, s. 24.

[*Note.—As to payments made and acts done under revoked powers of attorney, see 10 Edw. VII. c. 47, s. 3.*]

35. (1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the High Court may make such order as to the Court seems just, for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him. Trustees committing breach of trust at instigation of beneficiary. Imp. Act, 56-57 Vict., c. 53, s. 45.

(2) This section shall apply notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation. R.S.O. 1897, c. 129, s. 30 (1) *amended.*

TECHNICAL BREACHES OF TRUST.

36. If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach of trust when- Relief of trustees committing technical breach of trust.

ever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed such breach, the court may relieve the trustee either wholly or partly from personal liability for the same. 62 V. (2), c. 15, s. 1.

Imp. Act, 59-60 Vict., c. 35, s. 3.

[*As to limitation of actions against trustees, see Limitations of Actions Act, 10 Edw. VII., c. 34, ss. 46-48.*]

PAYMENT INTO COURT.

Payment into court by trustees of trust funds or securities.

Imp. Act, 56-57 Vict., c. 53, s. 42.

37.—(1) Where any money or securities belonging to a trust are in the hands or under the control of or are vested in a sole trustee or several trustees and it is the desire of such trustee or of the majority of such trustees to pay the money into, or to deposit the securities in court, the High Court on an *ex parte* application in Chambers may order the payment into, or deposit in court to be made by the sole trustee, or by the majority of the trustees without the concurrence of the other or others if such concurrence cannot be obtained. R.S.O. 1897, c. 336, s. 4 (1 and 3), *amended*.

(2) A Surrogate Court Judge may make the like order where, in passing accounts before him, it appears to him that an executor, administrator, guardian or trustee has money or securities in his hands belonging to an infant, lunatic, or person of unsound mind, or to a beneficiary whose address is unknown; and such order shall be entered in the Chamber Book of the High Court at Osgoode Hall and in the case of an infant shall state his name and age and shall be served upon the Official Guardian. 3 Edw. VII. c. 7, s. 50.

Imp. Act, 56-57 Vict., c. 53, s. 42.

(3) Where any such money, or securities, are deposited with a banker, or broker, or other depositary, the Court may order payment, or delivery thereof to the majority of the trustees for the purpose of payment into, or deposit in court, and every transfer, payment, and delivery, made in pursuance of such order, shall be valid and take effect as if the same had been made on the authority, or by the act, of all the persons entitled to the money and securities, so transferred, paid, or delivered. R.S.O. 1897, c. 336, s. 4.

Payment into court by persons holding trust moneys for trustee.

(4) Any person with whom trust money or securities have been deposited or to whose hands trust money or securities have come, where the trustee has been absent from Ontario for a year and is not likely to return at an early date, or in the event of the trustee's death, or where the

trustee in Ontario cannot give an acquittance of the money or securities, may make an application similar to that authorized by subsection 1. 62 V. (2), c. 15, s. 3, *amended.*

Moneys charged on land, stock, etc., to which infant, or lunatic, entitled, may be paid into Court.

(5) Where an infant, lunatic, or person of unsound mind, is entitled to any money payable in discharge of any land or personal estate, conveyed, assigned, or transferred, under this Act, the person by whom such money is payable may pay the same into the High Court in trust in any cause then depending concerning such money, or, if there is no such cause, to the credit of such infant, lunatic, or person of unsound mind. R.S.O. 1897, c. 336, s. 20, *amended.*

Imp. Act, 13 & 14 Vict. c. 60, s. 48.

Certificate of officer a discharge.

(6) The certificate or receipt of the proper officer shall be a sufficient discharge for the money, or securities, so paid into, or deposited in court.

(7) Money or securities ordered to be paid into, or deposited in court, shall, subject to Rules of Court, be dealt with according to the order of the court. R.S.O. 1897, c. 336, s. 4, *amended.*

PROCEDURE ON PAYING MONEY INTO COURT.

Applications to pay money into Court under Trustee Relief Act, how to be made.

38.—(1) Subject to Rules of Court the following procedure shall be observed:—

On an application to pay money into or to deposit securities in court under this Act, the applicant shall file an affidavit entitled in the High Court of Justice, "In the matter of (*specifying shortly the trust and the instrument creating it*)," which affidavit shall set forth:—

(i) The deponent's name and address.

(ii) The amount and description of the money or securities in question.

(iii) A statement whether the estate or succession duty (if chargeable) or any part thereof has been paid.

(iv) The names and addresses, as far as known to the deponent, of all persons interested in, or entitled to the money or securities in question; and to the best of his knowledge and belief whether or not such persons are under any disability, by reason of infancy, or unsoundness of mind.

(v) His submission to answer all such questions relating to the application of the money and securities in question as the Court or a Judge thereof may make or direct.

(vi) The place where he is to be served with any petition, notice, or other proceeding, relating to the money or securities in question.

(vii) A concise statement of the reason why the application is made and of the material facts.

(2) Every order made on such application shall direct the applicant forthwith to give notice thereof, by registered post, to the several persons who are as stated in his affidavit interested in, or entitled to the money or securities paid into, or deposited in court, except such as are infants, lunatics, or persons of unsound mind, for whom notice shall be given to the Official Guardian.

Notice of Order.

(3) It shall be the duty of the Official Guardian, whenever practicable, forthwith to communicate to the parents, guardians, or committee of any person, on whose behalf he may be so notified, the contents of such order.

(4) The notice of an order may be in the following form:

In the High Court of Justice.

In the matter of (*specifying trusts, etc., as in the affidavit*).
Take notice that pursuant to the order of the Court dated the day of I have paid into Court to the credit of the above mentioned matter $ [*or* I have deposited in Court to the credit of the above mentioned matter the following securities (*specifying them*)] in which money [or securities] you appear to be interested as (*stating shortly how, e.g.*, as legatee under the will of A.B.)
Dated this day of 19 .
Signature of applicant, in person, or by his Solicitor.

(5) Notice of all applications respecting money or securities paid into, or deposited in, court under this Act shall be served on the trustee, and the persons directed to be notified of such payment or deposit, unless such service is dispensed with by the court. R.S.O. 1897. c. 336, s. 30, *Amended.*

Removal of Personal Representatives.

Power of Court to remove.

39.—(1) The High Court may remove a personal representative upon any ground upon which such Court may remove any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed.

10 Edw. VII. c. 31.

(2) Any person so appointed shall give such security as he would be required to give if letters of administration were granted to him under *The Surrogate Courts Act.*

Who may apply.

(3) The order may be made upon the application of any executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased.

Rev. Stat. c. 51. Procedure.

(4) Subject to any rules to be made under *The Ontario Judicature Act*, the practice in force for the removal of any other trustee shall be applicable to proceedings to be taken in the High Court under this section.

(5) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

Executor of executor.

(6) The executor of any person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors.

Copy of order to be filed with Surrogate Clerk.

(7) A certified copy of the order of removal shall be filed with the Surrogate Clerk, and another copy with the Registrar of the Surrogate Court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers of their respective offices, make

in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where such grant is indexed. R.S.O. 1897, c. 51, s. 39.

(8) The date of the grant shall be endorsed on the copy of the order filed with the Surrogate Clerk. 63 V. c. 17, s. 7.

RIGHTS AND LIABILITIES OF PERSONAL REPRESENTATIVES.

Actions by executors and administrators for torts.

40.—(1) Except in cases of libel and slander, the executor or administrator of any deceased person may maintain an action for all torts or injuries to the person or to the property of the deceased, in the same manner, and with the same rights and remedies as the deceased would, if living, have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased. R.S.O. 1897, c. 129, s. 10.

Actions against executors and administrators for torts.

(2) Except in cases of libel and slander, if a deceased person committed a wrong to another in respect of his person or property, the person wronged may maintain an action against the executor or administrator of the person who committed the wrong. R.S.O. 1897, c. 129, s. 11.

(3) An action under this section shall not be brought after the expiration of one year from the death of the deceased. R.S.O. 1897, c. 129, ss. 10 and 11.

[*As to actions and distress for rent by personal representatives, see The Landlord and Tenant Act, s. . . .; and as to liability of personal representatives of a deceased joint contractor, see Mercantile Law Amendment Act, 10 Edw. VII., c. 63, s. 5.*]

Executor to have action of account. 13 Edw. I. (St. of Westminster, Sec.) c. 23.

41. A personal representative shall have an action of account as the testator or intestate might have had if he had lived. R.S.O. 1897, c. 337, s. 10. *Amended.*

[*As to assignment and discharge of mortgages by executors, etc., see The Mortgages Act, 10 Edw. VII., c. 51, s. 9.*]

10 Edw. VII. c. 56.

Executors proving will to have power to sell. 21 Henry VIII., c. 4, s. 1.

42. Subject to the provisions of *The Devolution of Estates Act*, where a testator by his will devises or directs lands to be sold by his executors, a sale may be validly made by such one or more of the executors to whom probate of the will has been granted, and a conveyance by such executor or

executors shall be as valid and effectual as if all the executors named in the will had joined therein. R.S.O. 1897, c. 337, s. 12.

Execution of Powers.

Direction to sell, etc., may be exercised by executor when no other person is appointed to exercise same.

43. Where there is in a will a direction, express or implied, to sell, dispose of, appoint, mortgage, incumber or lease any land, and no person is by the will or otherwise by the testator appointed to execute and carry the same into effect, the executor, if any, named in such will may execute and carry into effect every such direction in respect of such land, and any estate or interest therein, in the same manner, and with the same effect, as if he had been appointed by the testator for that purpose. R.S.O. 1897, c. 129, s. 21. *Amended.*

Administrator with will annexed may exercise powers of sale given to the executor.

Or when no one named in the will to execute powers of sale, etc.

44. Where from any cause a Court of competent jurisdiction has committed to a person, who has given security to the satisfaction of such Court for his dealing with such land and its proceeds, letters of administration with a will annexed which contains an express or implied power to sell, dispose of, appoint, mortgage, incumber or lease any land, whether such power is conferred on an executor named in the will or the testator has not by the will or otherwise appointed a person to execute it, the administrator may exercise the power in respect of such land in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1897, c. 129, ss. 22 and 23.

Contract of Deceased.

Executors, etc., may convey in pursuance of a contract for sale made by deceased.

45. Where any person has entered into a contract in writing for the sale and conveyance of land, and such person has died intestate, or without providing by will for the conveyance of such land to the person entitled or to become entitled to such conveyance, if the deceased would be bound, were he alive, to execute a conveyance, his personal representative shall make and give to the person entitled to the same a good and sufficient conveyance of such land, of such nature as the deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor; and the conveyance shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but shall not have any further validity or effect. R.S.O. 1897, c. 129, s. 24.

Devises in Trust.

10 Edw. VII. c. 56.

46.—(1) Subject to the provisions of *The Devolution of Estates Act,* where by any will coming into operation after the eighteenth day of September, 1865, a testator charges his land, or any specific part thereof with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the land so charged to a trustee for the whole of his estate or interest therein, and does not make any express provision for the raising of such debt, legacy or sum of money out of such land, the devisee in trust, notwithstanding any trusts actually declared by the testator, may raise such debt, legacy or money by a sale and absolute disposition, by public auction or private contract, of such land or any part thereof, or by a mortgage of the same, or partly by one mode and partly by the other, and in any mortgage so executed may agree to such rate of interest and such period of repayment as he may think proper. R.S.O. 1897, c. 129, s. 16. *Amended.*

Devisee in trust may raise money by sale or mortgage to satisfy charges, notwithstanding want of express power in the will. Imp. Act, 22-23 Vict., c. 35, s. 14.

Power given by subsection 1 extended to survivors, devisees, etc. Imp. Act, 22-23 Vict., c. 35, s. 15.

(2) The powers conferred by this section shall extend to every person in whom the land devised is for the time being vested by survivorship, descent or devise, and to any person appointed under any power in the will or by the High Court to succeed to the trusteeship vested in such devisee in trust. R.S.O. 1897, c. 129, s. 17. *Amended.*

Executor to have power of raising money where there is no sufficient devise. Imp. Act, 22-23 Vict., c. 35, s. 16.

(3) If a testator who creates such a charge does not devise the land so charged in such terms that his whole estate and interest therein become vested in a trustee, the executor for the time being named in the will, if any, shall have the like power of raising money as is hereinbefore conferred upon the devisee in trust; and such power shall from time to time devolve upon and become vested in the person in whom the executorship is for the time being vested.

(4) Any sale or mortgage under this section shall operate only on the estate and interest of the testator. R.S.O. 1897, c. 129, s. 18. *Amended.*

Purchasers, etc., not bound to inquire as to exercise of powers. Imp. Act, 22-23 V., c. 35, s. 17.

(5) Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by this section, or any of them, have been duly and correctly exercised by the person acting in virtue thereof. R.S.O. 1897, c. 129, s. 19. *Amended.*

Section not to affect certain sales nor to extend to devises in fee or in tail. Imp. Act, 22-23 Vict., c. 35, s. 18.

(6) This section shall not extend to a devise to any person in fee or in tail, or for the testator's whole estate and interest charged with debts or legacies, or affect the power of any such devisee to sell or mortgage. R.S.O. 1897, c. 129, s. 20. *Amended.*

47. Every personal representative, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, shall be subject to all the liabilities, and compellable to discharge all the duties which, as respects the acts to be done by him under such powers, would have been imposed upon a person appointed by the testator, or would have been imposed by law upon any person appointed by law, or by any Court of competent jurisdiction to execute such power. R.S.O. 1897, c. 129, s. 25. *Amended.*

Duties and liabilities of an executor and administrator acting under the powers in this Act.

48. Where there are several personal representatives, and one or more of them die, the powers conferred upon them by this Act shall vest in the survivor or survivors. R.S.O. 1897, c. 129, s. 26.

Powers given by this Act to two or more to survive.

[*As to investment of moneys received for infants under Life Assurance Policies, see R.S.O. 1897, c. 203, s. 155, sub-s. 5.*]

Executors of Executors.

49. Executors of executors shall have the same actions for the debts and property of the first testator as he would have had if in life; and shall be answerable for such of the debts and property of the first testator as they shall recover as the first executors would be if they had recovered the same. R.S.O. 1897, c. 337, s. 13.

Executors of executors to have rights and liabilities of first executors.

See 25 Edw. III., Stat. 5, c. 5.

EFFECT OF REVOCATION OF AN ERRONEOUS GRANT.

50.—(1) Where a Court of competent jurisdiction has admitted a will to probate, or has appointed an administrator, notwithstanding that the grant of probate or the appointment may be subsequently revoked as having been erroneously made, all acts done under the authority of such probate or appointment, including all payments made in good faith to or by the personal representative, shall be as valid and effectual as if the same had been rightly granted or made.

Acts done valid.

Provided that upon revocation of the probate or appointment in cases of an erroneous presumption of death, the supposed decedent, and in other cases the new personal representative may, subject to the provisions of subsections 2 and 3, recover from the person who acted under the revoked grant or appointment any part of the estate remaining in his hands undistributed, and, subject to *The Limitations Act*, from any person who erroneously received any part of the estate as a devisee, legatee or one of the next of kin, or as a husband

Recovery of property.

10 Edw. VII., c. 34.

or wife of the decedent or supposed decedent, the part so received or the value thereof. R.S.O. 1897, c. 131, ss. 1 and 2.

Expenses.

(2) The person acting under the revoked probate or appointment may retain out of any part of the estate remaining in his hands undistributed his proper costs and expenses incurred in the administration. R.S.O. 1897, c. 131, s. 3.

Fraud.

(3) Nothing in this section shall protect any person acting as personal representative where he has been party or privy to any fraud whereby the grant or appointment has been obtained, or after he has become aware of any fact by reason of which revocation thereof is ordered, unless in the latter case he acts in pursuance of a contract for valuable consideration and otherwise binding made before he became aware of such fact. R.S.O. 1897, c. 131, s. 4. *Amended.*

Persons making payments, etc., under revoked probate or administration protected.

51. All persons making or permitting to be made any payment or transfer in good faith upon any probate or letters of administration granted by any Surrogate Court in Ontario, in respect of the estate of the deceased, shall be indemnified and protected in so doing, notwithstanding any defect or circumstance affecting the validity of the probate or letters of administration. R.S.O. 1897, c. 59, ss. 63 and 64. *Amended.*

ADMINISTRATION OF ESTATES.

Power for executors and trustees to compound, etc Imp. Act, 56-57 Vict., c. 53, s. 21.

52.—(1) A personal representative may pay or allow any debt or claim on any evidence that he thinks sufficient.

(2) A personal representative or two or more trustees acting together, or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof, may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal claimed, and may allow any time for payment for any debt, and may compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient, without being responsible for any loss occasioned by any act or thing done by him or them in good faith. R.S.O. 1897, c. 129, s. 33; 62 V. (2), c. 15, s. 2. *Amended.*

53. On the administration of the estate of a deceased person, in the case of a deficiency of assets, debts due to the Crown and to the personal representative of the deceased person, and debts to others, including therein debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal property. R.S.O. 1897, c. 129, s. 34.

In case of deficiency of assets, debts to rank *pari passu*.

Not to affect liens.

54.—(1) Where a personal representative, liable as such to the rents, or upon the covenants or agreements contained in a lease or agreement for a lease granted or assigned to the testator or intestate has satisfied all liabilities under the lease or agreement for a lease, which accrued due and were claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for lease, to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the parties entitled thereto, without appropriating any part, or any further part thereof, as the case may be, to meet any future liability under such lease, or agreement for lease.

As to liability of executor or administrator in respect of covenants, etc., in leases. Imp. Act, 22-23 Vict., c. 35, s. 27.

(2) The personal representative so distributing the residuary estate shall not be personally liable in respect of any subsequent claim under the lease, or agreement for lease.

(3) Nothing in this section shall prejudice the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom they have been distributed. R.S.O. 1897, c. 129, s. 36.

55.—(1) Where a personal representative, liable as such to the rent or upon the covenants or agreements contained in any conveyance on chief rent or rent-charge, whether any such rent is by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate has satisfied all liabilities under the conveyance, or agreement for a conveyance, which accrued due and were claimed up to the

As to liability of executor in respect of rents, etc., in conveyances on rent-charge, etc. Imp. Act, 22-23 Vict., c. 35, s. 28.

time of the conveyance by him hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned such agreement for conveyance to a purchaser thereof, he may distribute the residuary estate of the deceased to and amongst the persons entitled thereto, without appropriating any part, or any further part thereof, as the case may be, to meet any further liability under such conveyance, or agreement for conveyance.

(2) A personal representative so distributing the residuary estate shall not be personally liable in respect of any subsequent claim under the conveyance, or agreement for conveyance.

(3) Nothing in this section shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom they have been distributed. R.S.O. 1897, c. 129, s. 37.

Distribution of assets under trust deeds for benefit of creditors, or of the assets or intestate after notice given by trustee, assignee, executor or administrator.

56.—(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or of a particular class or classes of creditors, where the creditors are not designated by name therein, or a personal representative has given such or the like notices as, in the opinion of the court in which such trustee, assignee, or personal representative is sought to be charged, would have been directed to be given by the High Court in an action for the execution of the trusts of such deed or assignment, or in an administration suit, for creditors and others to send in to such trustee, assignee, or personal representative, their claims against the person for the benefit of whose creditors such deed or assignment is made, or against the estate of the testator or intestate as the case may be, at the expiration of the time named in the notices, or the last of the notices, for sending in such claims, he may distribute the proceeds of the trust estate, or the assets of the testator or intestate as the case may be, or any part thereof amongst the persons entitled thereto, having regard to the claims of which he has then notice, and shall not be liable for the proceeds of the trust estate, or assets, or any part thereof, so distributed to any person of whose claim he had not notice at the time of the distribution.

(2) Nothing in this section shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets, or any part thereof, into the hands of persons who have received the same. R.S.O. 1897, c. 129, s. 38. *Amended.*

[*As to contested claims see The Surrogate Courts Act. 10 Edw. VII., c. 31, s. 69.*]

PROPERTY SUBJECT TO POWER, WHEN TO BE ASSETS.

57. Property over which a deceased person had a general power of appointment which he might have exercised for his own benefit without the assent of any other person, shall be assets for the payment of his debts, where the same is appointed by his will; and, under an execution against the personal representatives of such deceased person, such assets may be seized and sold, after the deceased person's own property has been exhausted. R.S.O. 1897, c. 337, s. 20.

Exercise of general power by will, effect of. 3 W. & M. c. 14.

UNDISPOSED OF RESIDUE.

58.—(1) When a person dies having by will appointed an executor, such executor, in respect of any residue not expressly disposed of, shall be deemed to be a trustee for the person (if any) who would be entitled to the estate under *The Devolution of Estates Act* in case of an intestacy, unless it appears by the will that the executor was intended to take such residue beneficially. R.S.O. 1897, c. 337, s. 14.

Executor trustee of residue undisposed of for next of kin under 10 Edw. VII., c. 56, unless it appear by the will that he was intended to take beneficially. Imp. Act, 11 Geo. IV. and 1 W. IV. c. 40, s. 1.

(2) Nothing in this section shall prejudice any right in respect of any residue not expressly disposed of, to which, if this Act had not been passed, an executor would have been entitled where there is not any person who would be entitled to the testator's estate under *The Devolution of Estates Act* in case of an intestacy. R.S.O. 1897, c. 337, s. 15.

Not to prejudice rights of executors where there is not any person entitled to the residue under 10 Edw. VII., c. 56. Imp. Act, 11 Geo. IV. and 1 W. IV. c. 40, s. 2.

LIABILITY OF REPRESENTATIVES OF EXECUTORS AND ADMINISTRATORS.

59. The personal representative of any person who, as executor or as executor in his own wrong, or as administrator, wastes or converts to his own use any part of the estate of any deceased person, shall be liable and chargeable in the same manner as his testator or intestate would have been if he had been living. R.S.O. 1897, c. 337, ss. 16 and 17. *Amended.*

Executors, etc., of executors in their own wrong wasting goods of the deceased, liable as their testator, etc. 30 Car. II. c. 7, s. 1. 4 W. & M. c. 24, s. 12.

CONVEYANCE OF LANDS SOLD FOR DEBTS.

Infants to make conveyances under order of the Court of real estates directed to be sold for payment of debts.

60.—(1) Where an action or proceeding is instituted in any court for the payment of any debts of any person deceased to which the estate may be subject or liable, and such court orders the estate liable to such debts, or any of them, to be sold or mortgaged, for satisfaction of such debts, and by reason of the infancy of any heir, or devisee, an immediate conveyance thereof cannot be compelled, such court shall direct, and if necessary, compel, such infant to convey such estate so to be sold, or mortgaged, by all proper assurances to the purchaser, or mortgagee thereof, and in such manner as the Court shall deem proper and direct, and every such infant shall make such conveyance, or mortgage, accordingly.

Imp. Act, 11 Geo. IV., and 1 W. IV., c. 47, s. 11, as amended by 2 and 3 Vict. c. 60, s. 1.

(2) Every such conveyance, or mortgage, shall be as valid and effectual as if such infant was, at the time of executing the same, of the full age of twenty-one years.

Surplus to descend as land would have done. Imp. Act, 2 and 3 Vict. c. 60, s. 2.

(3) The surplus money from such sale, or mortgage, shall descend in the same manner as the estates so sold, or mortgaged, would have done. R.S.O. 1897, c. 337, s. 18.

Persons having a life interest may, by order of the Court, convey the fee of estates ordered to be sold for payment of debts

Imp. Act, 11 Geo. IV. and 1 W. IV. c. 47, s. 12.

61. Where land is devised in settlement by any person whose estate is by law liable to the payment of any of his debts, and by such devise is vested in any person for life, or other limited interest, with any remainder, limitation, or gift over, which may not be vested, or may be vested in some person from whom a conveyance or other assurance of the same cannot be obtained, or by way of executory devise, and an order is made for the sale thereof for the payment of such debts, or any of them, the court may direct the tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey, release, assign, surrender, or otherwise assure the fee simple, or other the whole interest so to be sold, to the purchaser, or in such manner as the court may deem proper; and every such conveyance, release, surrender, assignment, or other assurance, shall be as effectual as if the person who makes and executes the same was seized, or possessed of the fee simple, or other whole estate, so to be sold. R.S.O. 1897, c. 337, s. 19, *amended.*

ESTATES OF INSOLVENT DECEASED PERSONS.

Creditor holding security to value the same.

62.—(1) On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor in proving his claim shall state whether he holds any security for his claim or any part thereof, and shall give full par-

ticulars of the same and if such security is on the estate of the deceased debtor, or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable the creditor shall put a specified value on such security, and the personal representative, under the authority of the other creditors of the estate of the deceased, or of the court if the estate is being then administered under the direction of or by a court, may either consent to the creditor's ranking for the claim, after deducting such valuation, or may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the personal representative has realized such security, in which he shall be bound to the exercise of ordinary diligence; and in either case the difference between the value at which the security is retained or taken, as the case may be, and the amount of the claim of the creditor shall be the amount for which he shall rank upon the estate of the deceased debtor.

When claim is based on negotiable instruments.

(2) If the claim of the creditor is based upon a negotiable instrument upon which the estate of the deceased debtor is only indirectly or secondarily liable, and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the person primarily liable thereon, as his security for the payment thereof, but after the maturity of such liability and its non-payment, he shall be entitled to amend and re-value his claim. R.S.O. 1897, c. 132, s. 1.

Creditor holding security may assign same and rank as unsecured creditor.

63. A creditor holding any such security on the estate of a deceased debtor, or on the estate of a third person for whom the estate of such debtor is only indirectly or secondarily liable, may release or deliver up such security to the personal representative, or he may by statutory declaration delivered to the personal representative set a value upon such security; and from the time he shall have so released or delivered up such security or valued the same, the debt to which such security applied shall be considered as an unsecured debt of the estate, or as being secured only to the extent of the value set upon such security; and the creditor may rank as and exercise all the rights of an ordinary creditor, for the amount of his claim, or to the extent only of so much thereof as exceeds the value set upon such security as the case may be. R.S.O. 1897, c. 132, s. 2.

When creditor holding security fails to value same.

64.—(1) Where a person claiming to be entitled to rank on the estate holds security for his claim or any part thereof, of such a nature that he is required by this Act to value it, and he fails to value the same, the Judge of the Surrogate

Court, who granted the probate or letters of administration, may, upon summary application by the personal representative, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed on such security and notified in writing to the personal representative within a time to be limited by the order such claimant shall, in respect of the claim, or the part thereof for which the security is held, be wholly barred of any right to share in the proceeds of such estate.

(2) If a specified value is not placed on such security and notified in writing to the personal representative according to the exigency of the order, or within such further time as the Judge may allow, the claim or the part thereof, as the case may be, shall be wholly barred as against such estate. R.S.O. 1897, c. 132, s. 3.

Administration under the direction of a court.

(3) Where an estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by this section upon the Judge of the Surrgoate Court. R.S.O. 1897, c. 132, s. 4.

[*As to priority in respect of wages, see 10 Edw. VII., c. 72, sec. 6.*]

SUMMARY APPLICATION TO COURT FOR ADVICE.

Trustee, etc., may apply for advice in management, of trust property.

Imp. Act., 22-23 Vict., c. 35, s. 30.

65.—(1) A trustee, guardian, or personal representative, may, without the institution of an action, apply to the High Court in the manner prescribed by Rules of Court, for the opinion, advice, or direction of the Court on any question respecting the management or administration of the trust property or the assets of his ward or his testator or intestate.

(2) The trustee, guardian, or personal representative, acting upon the opinion, advice or direction given, shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, guardian, or personal representative, in the subject matter of the application, unless he has been guilty of some fraud, wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R.S.O. 1897, c. 129, s. 39; 2 Edw. VII. c. 12, s. 18, *amended.*

ALLOWANCE TO TRUSTEES AND PERSONAL REPRESENTATIVES.

66.—(1) A trustee, guardian or personal representative, shall be entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the estate, as may be allowed by a Judge of the High Court, or by any Master or Referee, to whom the matter may be referred. R.S.O. 1897, c. 129, s. 40; 63 V. c. 17, s. 18 (2) *amended.* Allowance to trustees.

(2) The amount of such compensation may be settled although the estate is not before the Court in an action. R.S.O. 1897, c. 129, s. 41, *amended.* Allowance to be made though the estate not before the Court.

(3) The Judge of a Surrogate Court in passing the accounts of a trustee under a will or of a personal representative or guardian, may from time to time allow to him a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the estate. R.S.O. 1897, c. 129, s. 43. Surrogate Judge may order an allowance to be made to executor or administrator out of the estate for his trouble.

(4) Where a barrister or solicitor is a trustee, guardian or personal representative and has rendered necessary professional services to the estate, regard may be had in making the allowance to such circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of such services. 3 Edw. VII. c. 7, s. 27. Allowance to barrister or solicitor trustee for professional services.

(5) Nothing in this section shall apply where the allowance is fixed by the instrument creating the trust. R.S.O. 1897, c. 129, s. 44. Where allowance fixed by the instrument.

MISCELLANEOUS.

67. A trustee who is either a vendor or a purchaser may sell or buy without excluding the application of section 2 of *The Vendors and Purchasers Act.* R.S.O. 1897, s. 129, s. 6. Trustees buying or selling. 10 Edw. VII., c. 53.

Indemnity.

68. This Act, and every order purporting to be made under it, shall be a complete indemnity to all persons, for any acts done pursuant thereto; and it shall not be necessary for any person to inquire concerning the propriety of the order, or whether the court by which it was made had jurisdiction to make the same. R.S.O. 1897, c. 336, s. 19. Indemnity. Imp. Acts, 15 and 16 Vict. c. 55, s. 7. 56-57 Vict., c. 53, s. 49.

Costs.

Costs may be ordered to be paid out of estate.

69. The High Court may order the costs of and incidental to any application, order, direction, conveyance, assignment or transfer under this Act, or any part thereof, to be paid or raised out of the property in respect of which the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as the Court may deem proper. R.S.O. 1897, c. 336, s. 29. *Amended.*

Application of Act.

Application of Act.

70. Subject to section 71, unless otherwise expressed therein, the provisions of this Act shall apply to all trusts whenever created, and to all trustees whenever appointed. (*New.*)

Additional powers given.

Proviso.

71. The powers, rights and immunities conferred by this Act are in addition to those conferred by the instrument creating the trust, but shall have effect subject to the terms thereof. R.S.O. 1897, c. 130, s. 4. *Part.*

72. Nothing in this Act shall authorize a trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do by the instrument creating the trust. R.S.O. 1897, c. 130, s. 4. *Part.*

REPEAL.

Repeal.

73. Chapters 129, 131, 132 and 336, sections 10 to 20 of chapter 337, sections 63 and 64 of chapter 59, and section 39 of chapter 51 of the Revised Statutes of Ontario, 1897, and chapter 15 of the Acts passed at the 2nd Session held in the 62nd year, and section 18 of chapter 17 of the Acts passed in the 63rd year of the reign of Her late Majesty Queen Victoria, and chapter 14 of the Acts passed in the 1st year and sections 26 and 27 of chapter 7 of the Acts passed in the 3rd year, and chapter 59 of the Acts passed in the 9th year of the reign of His late Majesty King Edward the Seventh, are repealed.

No. 97.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Trustees and Executors and the Administration of Estates.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 98. 1911.

BILL

An Act respecting Provincial Aid to Drainage.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Provincial Aid to Drainage Act*. 63 V., c. 8, s. 7. *Amended.*

Interpretation "Drainage work."

2. In this Act "drainage work" shall mean and include any drainage work to which *The Municipal Drainage Act* applies. *New.*

Application of Act.

3. This Act shall apply to the construction, reconstruction and the improvement of—

(*a*) That portion of the trunk channel constituting the outlet of any drainage work;

(*b*) Any work for the purpose of carrying a drainage work through intervening high land to a natural or other outlet;

(*c*) Any work for the purpose of rendering more effective a drainage work by embanking, pumping or other mechanical means. 63 V., c. 8, s. 1. *Amended.*

Council of initiating municipality may apply for aid.

10 Edw. VII., c. 90.

4. The Council of a municipality initiating a drainage work, being or including work to which this Act applies, may, after adopting the engineer's report, apply to the Lieutenant-Governor in Council by petition verified by a statutory declaration of the engineer, and setting forth the reasons why the whole cost of the work should not be assessed upon the lands which would be liable to assessment therefor under *The Municipal Drainage Act*, and that aid should therefore be granted, accompanied by a verified copy of the report, a statement of the cash value and the engineer's assessment of the lands, and a field plan of the proposed work. 63 V., c. 8, ss. 3 and 4. *Amended.*

Examination and grant of aid on report thereon.

5.—(1) Where it appears that the drainage work is, or includes, a work to which this Act applies, the Lieutenant-Governor in Council may cause an examination thereof to be made by an engineer of the Public Works Department who shall report fully thereon and upon all matters alleged in the petition and upon his report the Lieutenant-Governor in Council may assume and pay out of the Consolidated Revenue Fund such part or proportion of the cost of the undertaking as he may deem just and reasonable. 63 V., c. 8, s. 5. *Amended.*

(2) An order-in-council passed under this section shall not be acted upon until it has been approved by resolution of the Assembly. *New.*

Repeal.

6. Chapter 8 of the Acts passed in the 63rd year of the reign of Her late Majesty Queen Victoria is repealed.

No. 98.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Provincial Aid to Drainage.

First Reading.

Mr. Reaume.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 99. 1911.

BILL

An Act respecting Conditional Sales of Goods.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Conditional Sales Act.* Short title.

2. In this Act, Interpretation.
"Goods" shall include wares and merchandise. "Goods."
New.

3.—(1) Where possession of goods is delivered to a purchaser or a proposed purchaser or a hirer of them, in pursuance of a contract which provides that the ownership is to remain in the seller or lender for hire until payment of the purchase or consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, proposed purchaser, or hirer without notice in good faith and for valuable consideration, such provision shall be invalid, and such purchaser or proposed purchaser or hirer shall be deemed the owner of the goods, unless, Conditional sale of Goods accompanied by delivery to be invalid against subsequent purchasers or mortgagees unless

(*a*) The contract is evidenced by a writing signed by the purchaser, proposed purchaser or hirer or his agent stating the terms and conditions of the sale or hiring and describing the goods sold or lent for hire; and, the contract is in writing

(*b*) Within ten days after the execution of the contract a true copy of it is filed in the office of the Clerk of the County or District Court of the county or district in which the purchaser, proposed purchaser, or hirer resided at the time of the sale or hiring. and a copy filed in office of clerk of County or District Court.

(2) Subsection 1 shall apply to the case of a hire receipt where the hirer is given an option to purchase. R.S.O., Hire receipts

1897, c. 149, ss. 1 and 2; 4 Edw. VII., c. 10, s. 37; 6 Edw. VII., c. 19, s. 3. *Amended.*

Goods delivered for the purpose of resale.

(3) Where the delivery is made to a trader or other person for the purpose of resale by him in the course of business such provision shall also as against his creditors be invalid and he shall be deemed the owner of the goods unless the provisions of this Act have been complied with.

(4) Where such trader or other person resells the goods in the ordinary course of his business the property in and ownership of such goods shall pass to the purchaser notwithstanding that the provisions of this Act have been complied with. R.S.O., 1897, c. 148, s. 41. *Amended.*

Manufactured goods with name of lender on them.

(5) It shall not be necessary to file a copy of a contract respecting manufactured goods which at the time possession is delivered have the name and address of the seller or lender painted, printed, stamped or engraved thereon or plainly attached thereto. R.S.O., 1897, c. 149, s. 1.

Household furniture.

(6) Subsection 5 shall not apply to household furniture other than pianos, organs or other musical instruments. R.S.O., 1897, c. 149, s. 2.

Error in name or description.

(7) An error or inaccuracy in the name or address of the seller or lender which does not mislead shall not prevent the application of subsection 5. See R.S.O., 1897, c. 149, s. 4. *Amended.*

Rolling stock sold to railway company.

(8) This section shall not apply to a contract for the sale by an incorporated company to a railway company of rolling stock if the contract or a copy of it is filed in the office of the Provincial Secretary within ten days from its execution. 3 Edw. VII., c. 13, s. 2.

Copy of contract to be given to purchaser or hirer.

4. The seller or lender shall deliver a copy of the contract to the purchaser or hirer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so, the Judge of the County or District Court of the county or district in which the purchaser or hirer resided when the contract was made may, on summary application, make an order for the delivery of such copy. R.S.O., 1897, c. 149, s. 5. *Amended.*

Index to be kept by clerk of County or District Court.

5. The Clerk of the County or District Court shall make a record of every contract of which a copy is filed in his office under this Act in an Index Book to be kept for that

purpose, and he shall be entitled to a fee of ten cents for making the record and to a fee of five cents for every search in respect thereof. R.S.O., 1897, c. 149, s. 4, part.

Effect of error in copy of contract filed.

6. An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract which does not mislead shall not invalidate the filing or destroy the effect of it. R.S.O., 1897, c. 149, s. 4, part.

Particulars of claim on goods to be given on written request.

7.—(1) The seller or lender shall within five days after the receipt of a request in writing from any proposed purchaser of any goods to which this Act applies, or from any other person interested, furnish particulars of the amount remaining due to him and the terms of payment of it and in default he shall incur a penalty not exceeding $50, recoverable under *The Ontario Summary Convictions Act*. R.S.O., 1897, c. 149, s. 6 (1); 6 Edw. VII., c. 19, s. 24.

10 Edw. VII., c. 37.

How particulars to be given.

(2) If the request is by letter the person making the request shall give a name and post office address to which a reply may be sent, and it shall be sufficient if the information is given by registered letter deposited in the Post Office within the prescribed time addressed to the person enquiring, at his proper post office address, or where the name and address is given by him by the name and at the post office address so given. R.S.O., 1897, c. 149, s. 7.

Goods retaken to be retained for 20 days.

8.—(1) Where the seller or lender retakes possession of the goods for breach of condition he shall retain them for twenty days, and the purchaser or hirer or his successor in interest may redeem the same within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession. R.S.O., 1897, c. 149, s. 8, and 6 Edw. VII., c. 19, s. 25.

Notice of reselling.

(2) Where the purchase price of the goods exceeds $30 and the seller or lender intends to look to the purchaser or hirer for any deficiency on a resale of the goods they shall not be resold until after notice in writing of the intended sale has been given to the purchaser or hirer or his successor in interest. R.S.O., 1897, c. 149, s. 9. *Amended.*

Service of notice.

(3) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or hirer or his successor in interest at least five days before the sale or may be sent by registered post at least seven days before the sale addressed to the purchaser or hirer or his successor in interest at his last known post office address.

Time for giving notice.

(4) The notice may be given during the twenty days mentioned in subsection 1. R.S.O., 1897, c. 149, s. 8; 6 Edw. VII., c. 19, s. 25.

Application of this section.

(5) This section shall apply notwithstanding any agreement to the contrary. *New.*

Goods affixed to realty subject to rights of seller or lender.

9. Where the goods have been affixed to realty they shall remain subject to the rights of the seller or lender as fully as they were before being so affixed, but the owner of such realty or any purchaser or any mortgagee or other encumbrancer thereof shall have the right as against the seller or lender or other person claiming through or under him to retain the goods upon payment of the amount owing on them. 5 Edw. VII., c. 13, s. 14.

(NOTE.—*As to agreements, provisoes, etc., providing for place of trial of any action,* see 6 Edw. VII., c. 19, s. 22.)

Repeal.

10. The following Acts and parts of Acts are repealed:—

Chapter 149 and Section 41 of Chapter 148 of the Revised Statutes of Ontario, 1897.

Section 2 of Chapter 13 of the Acts passed in the third year, and Section 14 of Chapter 13 of the Acts passed in the fifth year, and Sections 23, 24 and 25 of Chapter 19 of the Acts passed in the sixth year of the reign of His late Majesty King Edward VII.

No. 99.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Conditional Sales of Goods.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 99. 1911.

BILL

An Act respecting Conditional Sales of Goods.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Conditional Sales Act.* Short title.

2. In this Act, Interpretation.

"Goods" shall include wares and merchandise. "Goods."

New.

3.—(1) Where possession of goods is delivered to a purchaser or a proposed purchaser or a hirer of them, in pursuance of a contract which provides that the ownership is to remain in the seller or lender for hire until payment of the purchase or consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, proposed purchaser, or hirer without notice in good faith and for valuable consideration, such provision shall be invalid, and such purchaser or proposed purchaser or hirer shall be deemed the owner of the goods, unless, Conditional sale of Goods accompanied by delivery to be invalid against subsequent purchasers or mortgagees unless

(*a*) The contract is evidenced by a writing signed by the purchaser, proposed purchaser or hirer or his agent stating the terms and conditions of the sale or hiring and describing the goods sold or lent for hire; and, the contract is in writing

(*b*) Within ten days after the execution of the contract a true copy of it is filed in the office of the Clerk of the County or District Court of the county or district in which the purchaser, proposed purchaser, or hirer resided at the time of the sale or hiring. and a copy filed in office of clerk of County or District Court.

(2) Subsection 1 shall apply to the case of a hire receipt where the hirer is given an option to purchase. R.S.O., Hire receipts.

1897, c. 149, ss. 1 and 2; 4 Edw. VII., c. 10, s. 37; 6 Edw. VII., c. 19, s. 3. *Amended.*

Goods delivered for the purpose of resale.

(3) Where the delivery is made to a trader or other person for the purpose of resale by him in the course of business such provision shall also as against his creditors be invalid and he shall be deemed the owner of the goods unless the provisions of this Act have been complied with.

(4) Where such trader or other person resells the goods in the ordinary course of his business the property in and ownership of such goods shall pass to the purchaser notwithstanding that the provisions of this Act have been complied with. R.S.O., 1897, c. 148, s. 41. *Amended.*

(5) ☞Clause "B" of subsection 1 shall not apply to a contract respecting manufactured goods, including pianos, organs or other musical instruments which at the time possession is delivered have the name and address of the seller or lender painted, printed, stamped or engraved thereon or plainly attached thereto, nor to a contract respecting household furniture other than pianos, organs or other musical instruments.☜

Error in name or description.

(6) An error or inaccuracy in the name or address of the seller or lender which does not mislead shall not prevent the application of subsection 5. See R.S.O., 1897, c. 149, s. 4. *Amended.*

Rolling stock sold to railway company.

(7) This section shall not apply to a contract for the sale by an incorporated company to a railway company of rolling stock if the contract or a copy of it is filed in the office of the Provincial Secretary within ten days from its execution. 3 Edw. VII., c. 13, s. 2.

Copy of contract to be given to purchaser or hirer.

4. The seller or lender shall deliver a copy of the contract to the purchaser or hirer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so, the Judge of the County or District Court of the county or district in which the purchaser or hirer resided when the contract was made may, on summary application, make an order for the delivery of such copy. R.S.O., 1897, c. 149, s. 5. *Amended.*

Index to be kept by clerk of County or District Court.

5. The Clerk of the County or District Court shall make a record of every contract of which a copy is filed in his office under this Act in an Index Book to be kept for that purpose, and he shall be entitled to a fee of ten cents for making the record and to a fee of five cents for every search in respect thereof. R.S.O., 1897, c. 149, s. 4, part.

6. An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract which does not mislead shall not invalidate the filing or destroy the effect of it. R.S.O., 1897, c. 149, s. 4, part. Effect of error in copy of contract filed.

7.—(1) The seller or lender shall within five days after the receipt of a request in writing from any proposed purchaser of any goods to which this Act applies, or from any other person interested, furnish particulars of the amount remaining due to him and the terms of payment of it and in default he shall incur a penalty not exceeding $50, recoverable under *The Ontario Summary Convictions Act*. R.S.O., 1897, c. 149, s. 6 (1); 6 Edw. VII., c. 19, s. 24. Particulars of claim on goods to be given on written request. 10 Edw. VII., c. 37.

(2) If the request is by letter the person making the request shall give a name and post office address to which a reply may be sent, and it shall be sufficient if the information is given by registered letter deposited in the Post Office within the prescribed time addressed to the person enquiring, at his proper post office address, or where the name and address is given by him by the name and at the post office address so given. R.S.O., 1897, c. 149, s. 7. How particulars to be given.

8.—(1) Where the seller or lender retakes possession of the goods for breach of condition he shall retain them for twenty days, and the purchaser or hirer or his successor in interest may redeem the same within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession. R.S.O., 1897, c. 149, s. 8, and 6 Edw. VII., c. 19, s. 25. Goods retaken to be retained for 20 days.

(2) Where the purchase price of the goods exceeds $30 and the seller or lender intends to look to the purchaser or hirer for any deficiency on a resale of the goods they shall not be resold until after notice in writing of the intended sale has been given to the purchaser or hirer or his successor in interest. R.S.O., 1897, c. 149, s. 9. *Amended.* Notice of reselling.

(3) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or hirer or his successor in interest at least five days before the sale or may be sent by registered post at least seven days before the sale addressed to the purchaser or hirer or his successor in interest at his last known post office address. Service of notice.

(4) The notice may be given during the twenty days mentioned in subsection 1. R.S.O., 1897, c. 149, s. 8; 6 Edw. VII., c. 19, s. 25. Time for giving notice.

Application of this section.

(5) This section shall apply notwithstanding any agreement to the contrary. *New.*

Goods affixed to realty subject to rights of seller or lender.

9. Where the goods have been affixed to realty they shall remain subject to the rights of the seller or lender as fully as they were before being so affixed, but the owner of such realty or any purchaser or any mortgagee or other encumbrancer thereof shall have the right as against the seller or lender or other person claiming through or under him to retain the goods upon payment of the amount owing on them. 5 Edw. VII., c. 13, s. 14.

(NOTE.—*As to agreements, provisoes, etc., providing for place of trial of any action,* see 6 Edw. VII., c. 19, s. 22.)

Repeal.

10. The following Acts and parts of Acts are repealed:—

Chapter 149 and Section 41 of Chapter 148 of the Revised Statutes of Ontario, 1897.

Section 2 of Chapter 13 of the Acts passed in the third year, and Section 14 of Chapter 13 of the Acts passed in the fifth year, and Sections 23, 24 and 25 of Chapter 19 of the Acts passed in the sixth year of the reign of His late Majesty King Edward VII.

☞ **11.** This Act shall come into force on the 1st day of July, 1911.☜

No. 99.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Conditional Sales of Goods.

1st Reading, 25th day of Jan., 1911.
2nd Reading, 26th day of Jan., 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 100. 1911.

BILL

An Act to Amend The Consolidated Municipal Act, 1903, with respect to Local Improvements.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

(NOTE.—*See Schedule at end of Bill showing how sections of present Act are covered by Bill.*)

1. This Act may be cited as *The Local Improvement Sections of The Municipal Act. New.* Short title.

Short title is new.

INTERPRETATION.

2. In this Act:— Interpretation.

(*a*) "Bridge" shall include a viaduct, a culvert, a subway and an embankment and shall also include a pavement on a bridge.

(*b*) "Clerk" shall mean and include the clerk of the municipality and any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk.

(*c*) "Constructing" and "construction" shall include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired.

(*d*) "Corporation" shall include the corporation of a municipality other than a police village and a board of police trustees of a police village.

(*e*) "Corporation's portion of the cost" shall mean that part or proportion of the cost of a work

which is not to be specially assessed, but is payable by the corporation.

(*f*) "Council" shall mean the council of the corporation of a municipality other than a police village and the board of police trustees of a police village as the case may be.

(*g*) "County" shall include "district."

(*h*) "Court of Revision" in the case of a police village shall mean the board of police trustees of the police village.

(*i*) "Curbing" shall include a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk.

(*j*) "Engineer" shall include an officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by an engineer.

(*k*) "Frontage" when used in reference to a lot abutting directly on a work shall mean that side or limit of the lot which abuts directly on the work.

(*l*) "Judge of the County Court" shall mean and include the judge and a junior judge of a county or district court.

(*m*) "Lifetime" as applied or applicable to a work shall mean the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the Court of Revision or the judge (as the case may be).

(*n*) "Lot" shall mean a subdivision or a parcel of land which by *The Assessment Act* is required to be separately assessed, and "lots" shall mean more than one lot as so defined.

(*o*) "Municipality" shall include a union of townships, a municipality composed of more than one township, a township, a city, a town, a village, and a police village, but not a county. *New.*

(*p*) "Owner" and "owners," shall mean respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, shall include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but shall not include a person who is, or is assessed as, owner, where there is a tenant for years of the land, who is an owner within the meaning of this clause. 3 Edw. VII., c. 19, s. 668 (2-3). *Amended.*

(*q*) "Owners' portion of the cost" shall mean that part or proportion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work.

(*r*) "Pavement" shall include any description of pavement or roadway.

(*s*) "Paving" shall include macadamizing, planking, curbing, and the laying down or construction of any description of pavement or roadway.

(*t*) "Publication" and "published" shall mean insertion in a newspaper published in the municipality, if there is a newspaper published therein, or if there is none, then in a newspaper published in the county in which the municipality is situate.

(*u*) "Sewer" shall include a common sewer and a drain.

(*v*) "Sidewalk" shall include a footway and a street crossing.

(*w*) "Specially assessed" shall mean specially rated for or charged with part of the cost of a work.

(*x*) "Street" shall include a lane, an alley, a park, a square, a public drive and a public place or a part of any of them.

(*y*) "Value" shall mean assessed value, according to the last revised assessment roll of the municipality.

(*z*) "Work" shall mean a work or service which may be undertaken as a local improvement.

(*aa*) "Work undertaken" shall mean a work which is undertaken as a local improvement. *New.*

Interpretation is new in form except the definition of "owner," which is contained in section 668 (2-3) of present Act.

WORKS WHICH MAY BE UNDERTAKEN AS LOCAL IMPROVEMENTS

Works which may be effected as local improvements.

3.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement, that is to say:

(*a*) Opening, widening, extending, altering the grade of, diverting or improving a street;

(*b*) Opening or establishing a new street;

(*c*) Constructing a bridge as part of a street;

(*d*) Constructing, enlarging or extending a sewer;

(*e*) Paving a street;

(*f*) Constructing a sidewalk in, upon or along a street;

(*g*) Constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;

(*h*) Sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;

(*i*) The extension of a system of water, gas, light, heat or power works owned by the corporation, inincluding all such works as may be necessary for supplying water, gas, light, heat or power to the owners of land, for whose benefit such extension is provided.

(*j*) Acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive. 3 Edw. VII. c. 19, s. 664, pars. 1-3. *Amended.*

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance. 3 Edw. VII., c. 19, s. 666 (1). *Part.*

(1) Covers the same ground as s. 664, pars. 1-3. S. 664, par. 3, in effect gives power to construct a system of water, gas, light, heat and power works as local improvements. It is thought that these works should more properly be constructed out of general funds, and that the power to construct as local improvements should be limited to extensions, as was the case prior to the consolidation of 1903. The paragraph has therefore been amended so as to apply to extensions only. See also s. 569 as to power to construct extensions.

(2) Verbal changes only.

What works may be undertaken in connection with a sewer or pavement.

4.—(1) Where the work is the construction of a pavement, the Council, before constructing it, may make all necessary private drain connections from an existing sewer to the street line on either or both sides, and may also lay all necessary water mains and make such alterations or renewals of water service pipes and stopcocks as are necessitated by the work, and where the work is the construction of a sewer the Council may make all necessary private drain connections to the street line on either or both sides, but the cost of the private drain connection, alteration or renewal of a water service pipe or stopcock shall be specially assessed only upon the particular lot for or in connection with which it was constructed or effected. 3 Edw. VII., c. 19, s. 673 (1), (3). *Amended.*

(2) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement or sewer in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection. *New.*

Is a combination of s. 673 (1 and 3). Under s. 673 (1) the cost of branch drains may be included in the cost of the construction of the sewer or may be assessed against the lands benefited thereby by a special rate instead of a frontage rate. Under s. 673 (3) the cost of the water mains or private drain connections is to be a part of the cost of the pavement.

If the cost of the private drain connections is to be assessed as part of the cost of the pavement an injustice would be done to the person who already has a drain connection, as his land

would be assessed for a part of the cost of drain connections for the land of other persons.

It is thought advisable in both cases to specially assess the cost of drain connections separately against the particular lots having such connections, but in all other respects to treat them as part of the work.

Construction of private drain connections without petition.

5. Where a sewer has been or may hereafter be constructed the Council, by a vote of two-thirds of the members present at any general or special meeting, may undertake the construction of private drain connections from the sewer to the street line on either or both sides as a local improvement without any petition therefor and the cost of each private drain connection shall be specially assessed upon the particular lot for or in connection with which it is constructed, and the owners of the land shall not have the right of petition provided for by section 13. 6 Edw. VII., c. 34, s. 37. *Amended.*

Is s. 673 (2a) (enacted by 6 Edw. VII., c. 34, s. 37) amended. The old section only gives this power in the case of a sewer constructed out of the general funds. It is thought that if such a power is proper in any case it should be made general in its application.

Purchase by township of works already constructed.

6. In a township where the owners of land have constructed a work which might have been undertaken as a local improvement the Council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under the provisions of *The Consolidated Municipal Act, 1903,* and the purchase money may be provided by the Council and may be assessed in like manner as if the work were a work which the Council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the Council were undertaking the work so acquired as a local improvement. 3 Edw. VII., c. 19, s. 674 (4). *Amended.*

Is the first part of s. 674 (4) with verbal changes. Clause a of (4), providing for ascertaining whether the petition is sufficiently signed, is struck out, being covered by the general provisions of the new Bill.

Approval of Ont. Ry. and Municipal Bd. required in the case of certain works.

7.—(1) Where the work is the opening, widening, or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed $30,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the Council to undertake the work, give notice that he objects

to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and if such notice is given the work shall not be undertaken without the approval of The Ontario Railway and Municipal Board.

Approval may be withheld.

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as shall request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so the Board may withhold its approval.

Apportionment of cost of work.

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the Council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order (as the case may be).

(4) The Board, instead of making an order under subsection 3, may direct that if the work is undertaken such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and if the Council undertakes the work it shall conform with the directions of the order so made. *New.*

Providing for an application to The Railway and Municipal Board where the cost of opening, widening or extending a street or constructing a bridge exceeds $30,000, is new. Such a provision is thought advisable in the case of large works and also because of the extension of the power of the council to undertake such works as local improvements in spite of a petition against the work.

PROCEDURE FOR UNDERTAKING WORK.

Methods of undertaking works.

8. A by-law may be passed for undertaking and effecting a work

(*a*) On petition, or

(*b*) Without petition, on the initiative of the Council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (*j*) of section 3, or

(*c*) On sanitary grounds, as mentioned in section 10, or

(*d*) Without petition in the cases mentioned in sections 5 and 9. *New.*

Is a summary of the different methods of undertaking a work and is new as to form.

Construction of certain works on a two-thirds vote of council without petition.

9.—(1) Notwithstanding anything to the contrary contained in this or any other Act or in any by-law of the municipality, where the Council determines and by by-law, passed at a regular or special meeting by a vote of two-thirds of the members present, declares that it is desirable that the construction of a curbing, pavement, sidewalk or bridge, or the opening, widening or extension of a street, should be undertaken as a local improvement, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 3 Edw. VII., c. 19, s. 677. *Amended.*

(2) Subsection (1) shall not apply to a township.

Covers the works mentioned in ss. 675b and 677 and also has been extended to include a bridge. S. 675b, providing for the opening, widening or extension of a street on the report of the engineer, and in spite of a petition against the work, is confined to a city which has adopted the local improvement system, and in such a case the Corporation must assume at least 25 per cent. of the cost. S. 677 when first enacted only applied to sidewalks of certain kinds, but has been so extended from time to time that it now applies to any kind of sidewalk, pavement or curb. It is proposed to include a bridge, as it is thought that the ratepayers should not have the right to petition against the construction of a bridge if two-thirds of the members of the Council consider that the construction of it is necessary. It is open to question whether the exception as to townships is advisable.

Construction of sewer on recommendation of Board of Health.

10. Where the Council, upon the recommendation of the Provincial Board of Health or of the Local Board of Health of the municipality, determines and by by-law passed at a regular or special meeting of the Council by a vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer as a local improvement is necessary or desirable in the public interest on sanitary grounds, the Council may undertake and proceed with the work without petition and without giving any notice except the notice required by section 31, and the owners of the land shall not have the right of petition provided for by section 13. 3 Edw. VII., c. 19, s. 668. *Par.* 4 *amended.*

Is s. 668, par. 4, with verbal changes only.

Publication of notice of intention.

11. Where it is intended to proceed under sections 5, 9 or 10 the Council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention (Form 1) to be published.

Is new. The notice must be published, but service of it is not required.

Number of signatures to petition required.

12. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half the value of the lots liable to be specially assessed. 3 Edw. VII., c. 19, s. 668 (1). *First part amended.*

Verbal changes only.

Initiative plan—publication and service of notice of intention to construct work.

13.—(1) Where the Council proceeds on the initiative plan, notice of the intention of the Council to undertake the work (Form 2) shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed; and unless within one month after the publication and service of the notice a majority of the owners representing at least one-half the value of the lots which are liable to be specially assessed petition the Council not to proceed with it, the work may be undertaken and effected as a local improvement. 3 Edw. VII., c. 19, s. 669 (1). *Part amended.*

Contents of notice.

(2) The notice shall be sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which the work is to be effected, and the number of the instalments by which the special assessment is to be payable. 3 Edw. VII., c. 19, s. 669 (1*b*). *Amended.*

May cover different works.

(3) The notice may relate to and include any number of different works. 3 Edw. VII., c. 19, s. 669 (1). *Part amended.*

Manner of service.

(4) The notice may be served upon the owner

(*a*) Personally, or

(*b*) By leaving it at his place of business or of residence if within the municipality, or

(*c*) By mailing it at a post office within the municipality registered and addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality, or

(*d*) If the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon. 3 Edw. VII., c. 19, s. 669 (1*a*). *First part amended.*

Where residence, etc., unknown.

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed, service upon the owner shall not be requisite. *New.*

Where residence, etc., is not in assessment roll.

(6) If the place of business or of residence of the owner do not appear upon the assessment roll, the owner may be treated and dealt with as an owner whose place of business and of residence are unknown. *New.*

Proof of publication and service.

(7) Publication and service of the notice may be proved by affidavit or statutory declaration and the affidavit or statutory declaration, before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be *prima facie* evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth in the affidavit or statutory declaration. 3 Edw. VII., c. 19, s. 669 (1*a*). *Last part amended.*

(*1-4*) *Verbal changes only.*

(*5-6*) *Providing that service of the notice shall not be necessary in certain cases, are new.*

(7) *Verbal changes only.*

Effect of petition against work.

14.—(1) Where the Council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under the provisions of section 13, the Council shall not proceed on the initiative plan with regard to the same work for the period of two years after the presentation of the petition: Provided always that in a municipality in which a by-law passed under the provisions of section 50 is in force the prohibition contained in this section shall not prevent the Council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken. 3 Edw. VII., c. 19, s. 669 (2). *Amended.*

Proviso.

(2) Nothing in this section shall prevent the Council from exercising the power conferred by section 9. *New.*

Verbal changes only.

15.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive. *New, see* 3 Edw. VII., c. 19, s. 668 (1). Clerk to determine sufficiency of petition.

(2) For the purpose of determining the sufficiency of a petition for or against a work only the land which, according to the report and special assessment roll of the engineer, is to be specially assessed and the owners of it shall be taken into account. *New.* What owners to be counted

(3) When it is necessary to determine the value of any lot and the same cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of such lot and the value thereof as so fixed and determined shall be deemed for the purposes of this Act to be the assessed value thereof, and his determination shall be final and conclusive. *New. See* 3 Edw. VII., c. 19, s. 669 (3). Determining value of lots.

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if he proves his ownership to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition. 3 Edw. VII., c. 19, s. 669 (5). *Amended.* Owner whose name is not on roll may petition.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition Case of joint owners.

(*a*) They shall be reckoned as one owner only;

(*b*) They shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition. *New.*

(6) The clerk, for the purpose of any inquiry pending before him under the provisions of this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the County Court of the county in which the municipality lies. *New.*

(7) A witness, if a resident of the municipality, shall be bound to attend without payment of any fees or conduct Witness fees.

money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the County Court scale. *New.*

(1) Practically new. S. 668 (1) now provides that the number of the owners and the value of the property shall be ascertained in the manner provided by by-law in that behalf. It is thought that the clerk should be the person in all cases to determine the sufficiency of a petition. The assessment commissioner or treasurer or any other officer or person may perform the duties of the clerk. See Interpretation of "Clerk," s. 2 (b).

(2) Is new. It is proposed by the Bill to hold the Court of Revision in all cases after the work has been constructed, so that if it is found that lands have been omitted which should be specially assessed, the names of the owners of such lands could not be taken into consideration because the clerk has already determined as to the sufficiency of the petition.

(3) Is new. It is thought also that the clerk is the proper person to determine the value of the lot in such a case.

(4) Verbal changes only.

(5) Is new. There is no provision in the present Act dealing with the case of a joint ownership of land in determining the sufficiency of the petition.

(6) It is necessary that the clerk should have this power to enable him to determine the sufficiency of a petition, and it is thought reasonable that provision should also be made for the payment of witness fees in the case of non-residents.

Petitions to be lodged with clerk.

16. A petition for or against the undertaking of a work shall be lodged with the clerk and shall be deemed to be presented to the Council when it is so lodged. *New.*

Has been introduced in order to remove any doubt as to the filing and presentation of a petition.

Withdrawal of name from petition.

Proviso.

17. No person shall have the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. Provided always that any person who alleges that his signature to a petition was obtained by fraud, misrepresentation or duress, shall have the right to require the clerk in prosecuting the inquiry to investigate the matter alleged by such person, and if it appears that his signature was obtained by fraud, misrepresentation or duress his name shall be struck off the petition. *New. See* ss. 668 (1), 669 (3).

Is new. The last part of s. 668 (1) and s. 669 (3) provide that after being affixed to the petition for or against a work no name shall be removed without the consent of the Judge of the County Court. It is thought that no harm can

be done in allowing a person to withdraw his name before the petition has been certified to by the clerk, but that no name shall be withdrawn after the clerk has certified as to its sufficiency except in the case of fraud or misrepresentation.

HOW COST OF WORK TO BE BORNE.

18.—(1) Except as in this Act is otherwise expressly provided, the entire cost of a work shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost. 3 Edw. VII., c. 19, s. 665 (1). *Amended.* Frontage rate.

(2) The following may be included in the cost of the work: Items which may be included in cost.

(*a*) Engineering expenses.

(*b*) Cost of advertising and service of notices.

(*c*) Interest on temporary loans.

(*d*) Compensation for lands taken for the purposes of the work or injuriously affected by it.

(*e*) The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them. *New.*

(1) The changes are merely verbal. There are special provisions in the Act as it stands allowing the council to assess the cost according to the benefit received instead of by a frontage rate. (See the proviso to s. 665 (3) which relates to the case of a township situate within five miles of a city containing over 50,000 inhabitants. Also s. 674 (3) giving such a power to a township in the case of certain works.) These special provisions have been omitted, as the frontage rate prevails in all cases, although in the case of non-abutting land it may be divided into districts according to the proportion of benefit, but the frontage rate is then applied. See ss. 27 and 28 for method of assessment.

(2) What is meant by the cost of the work is not defined in the present Act and doubts have arisen as to what items should be properly included. It is proposed to make the cost of the work a matter of appeal to the Court of Revision and the County Judge and for that purpose it is thought advisable to remove all doubts as to whether certain items might be included in the cost of the work.

Guarantee of work.

19. Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required. 9 Edw. VII., c. 73, s. 35. *Amended.*

Is a redraft of s. 679a, added by 9 Edw. VII., c. 73, s. 35, and has been amended to make it clear that no deduction should be made from the contract price by reason of such guarantee, as was probably the intention of s. 679a.

Corporation portion of cost.

20. There shall be included in the corporation's portion of the cost—

(*a*) At least one-third of the cost of a sewer having a sectional area of more than four feet; and

(*b*) The entire cost of all culverts and other works in connection with a sewer or pavement which are provided and are required for surface drainage; and

(*c*) So much of the cost of a work as is incurred at and for street intersections. 3 Edw. VII., c. 19, s. 664*a* and s. 679 (1). *Amended.*

Is a redraft of s. 664a, omitting the part throwing the cost of the work opposite exempt property on the corporation. It is proposed by the Bill to specially assess exempt property in the same way as other lands but make the corporation pay the special assessment so long as the property remains exempt. (See s. 47).

Apportionment of cost of sewers.

21.—(1) Where the work is the construction of a sewer the Council may, by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer shall be borne by the corporation. 7 Edw. VII., c. 40, s. 32. *Amended.*

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 20, is to be included in the corporation's portion of the cost. *New.*

(1) Is s. 673 (2b) redrafted. Subs. (2) is necessary because of the requirements of s. 20.

The limitation of the old section to a sewer not having a section area of more than four feet results in the anomaly that while under s. 664a the Council must assume one-third

of the cost of a sewer having a sectional area of more than four feet, it cannot assume a larger proportion, while under s. 673 (2b) in the case of a smaller sewer it may assume any proportion. It is therefore proposed to make the new section apply to any sewer.

Corporation may assume part of cost of sidewalk or pavement.

22. The Council of the corporation of a municipality in which there is not in force a by-law passed under the provisions of section 50 applicable to the work, may by by-law passed at a regular meeting by a vote of three-fourths of all the members of the Council, provide that such part as to the Council may seem proper of the cost of a granolithic, stone, cement, asphalt or brick sidewalk, or of paving a street, as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation. 3 Edw. VII., c. 19, s. 678. *Amended.*

S. 678 as originally enacted gave the council the power to assume 40 per cent. of the cost of certain works which would otherwise fall on the land to be specially assessed, in addition to the cost at street intersections and opposite exempt property. Amendments have been made from time to time extending the operation of this section. By 62 V. (2), c. 26, s. 43, a subs. (2a) was added which gave the council the power to assume such larger or smaller proportion than 40 per cent. as it might think proper. The result of this amendment is to do away with the 40 per cent. provided for in the section as originally enacted, and the new section covers all the ground of the old section.

Reduction of assessment of corner lots, etc.

23.—(1) In the case of corner lots and triangular or irregularly shaped lots situate at the junction or intersection of streets a reduction shall be made in the special assessment which otherwise would be chargeable thereon, sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. 3 Edw. VII. c. 19, s. 673 (4). *Amended.*

Of lots unfit for building purposes.

(2) Where a lot is for any reason, wholly or in part, unfit for building purposes, a reduction shall also be made in the special assessment which otherwise would be chargeable thereon, sufficient to adjust its assessment as compared with that of the lots fit for building purposes, on a fair and equitable basis. 3 Edw. VII. c. 19, s. 673 (6). *Amended.*

How reduction to be made.

(3) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced. *New.*

Reduction to be borne by corporation.

(4) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. *New.*

(1) Is a redraft of the first part of s. 673 (4).

(2) It has been contended that s. 673 (6) only allows a reduction to be made where all the land on one side of a street is unfit for building purposes. It is thought that a reduction should be made in the case of any land which is wholly or in part unfit for building purposes as provided in the new subsection.

(3) The present Act does not provide how the reduction is to be made, it being left to the council to determine what proportion of the cost should be assessed on the lands which are unfit for building purposes on one side of a street.

(4) The present Act provides as to corner and irregularly shaped lots that the amount of any allowance may be charged on the land fronting on the work or may be assumed by the corporation. It is thought that in all cases any reduction should be borne by the corporation, which is the general practice.

Assessment of cost of sidewalk or curb.

24. Where the work undertaken is a sidewalk or curbing only the land abutting on that side of the street upon which the work is constructed shall be specially assessed. *New. See* 8 Edw. VII., c. 48, s. 26.

S. 678a was added by 8 Edw. VII., c. 48, s. 26, which provides that the council and the owners of the land on both sides of a street may agree that the cost of a sidewalk be assessed on the land abutting on both sides of the street and that a sidewalk be not constructed on the other side for a period named in the agreement.

Provision is also made for the readjustment of the assessment in case a sidewalk is afterwards constructed on the other side of the street.

It has been found difficult to work out the provisions of the section, and it has been dropped. It has been argued that under the present Act the cost of a sidewalk may be assessed on the land on both sides of the street and in order to remove any doubt it is proposed to enact s. 24.

Assessment of non-abutting land for cost of certain sewers.

25.—(1) Where the work is a sewer and in order to afford an outlet for the sewage for any land not abutting directly on the work or for the drainage of it the sewer is of a larger capacity than is required for the purpose of the abutting land, such other land may be specially assessed for a fair and just proportion of the cost of the work. 3 Edw. VII., c. 19, s. 673 (2). *Amended.*

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed upon it in the manner provided by section 18, and that part of the cost for which such other land is to be specially assessed shall be assessed upon it in the manner provided by sections 27 and 28. *New.* Method of assessment.

(*1*) *Verbal changes only.*

(*2*) *Is new. The frontage rate prevails in all cases. As to land not abutting on the work it is divided into as many districts as there are proportions of benefit, but the proportion of benefit is collected by means of a frontage rate.*

26.—(1) Where the work is the construction of a bridge or the opening, widening or extension of a street, and the Council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the Council may provide for the payment by the corporation of such part of the cost, as to the Council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work and so much of such residue as may seem just on such other land as is immediately benefited by the work. 3 Edw. VII., c. 19, ss. 674 (1-2), 675, 675*b*. *Amended.* Apportionment of cost of a bridge or the opening, etc., of a street.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 18, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 27 and 28. *New.* Method of assessment.

(*1*) *Covers the ground of ss. 674 (1-2), 675 and 675b. S. 674 (1-2) cover the construction of repair of bridges or culverts and the opening or extension of a street; the council to determine the proportion of the cost to be assumed by the corporation. It is not thought that the repair of a bridge should be effected as a local improvement, as it is the duty of the corporation at large to maintain and repair during the lifetime of a work.*

S. 675 covers the construction of a bridge, culvert or embankment. If the council by a 2-3 vote determine that the work benefits the municipality at large they may provide that the corporation shall assume as its proportion such part of the cost, not more than 50 per cent., as is deemed proper. This section covers the same ground as s. 674 (1-2). The only change made in combining these two sections is to strike out the limitation as to the proportion of the cost, which may be assumed by the corporation under s. 675. Under s. 674 (1-2) it is not limited.

Assessment of non-abutting land equally benefited.

27. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. *New.*

Assessment of non-abutting land unequally benefited.

28. Where land not abutting directly upon a work is to be specially assessed and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit and so that a district or section shall embrace all the land which will be benefited in the same proportion, and its proper portion of the cost shall be assigned to each district or section and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. *New.*

S. 27 and 28 are new. (*See notes to ss. 18 and 25.*)

PROCEDURE FOR MAKING SPECIAL ASSESSMENT.

Procedure.

29.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the Council shall procure to be made:

(*a*) A report as to the lifetime of the work;

(*b*) A report as to the reductions (if any) which ought to be made under the provisions of section 23 in respect of any lot and the aggregate amount of such reductions;

(*c*) An estimate of the cost of the work;

(*d*) A statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;

(*e*) A report as to the number of instalments by which the special assessment should be made payable; and

(*f*) A special assessment roll in which shall be entered

(i) Every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;

(ii) Every lot which, but for the provisions of section 47, would be exempt from the special assessment and the number of feet of its frontage;

(iii) The rate per foot with which each lot is to be so assessed;

(iv) The number of instalments by which the special assessment is to be payable.

(2) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports, estimate and special assessment roll mentioned in subsection 1, the Council shall procure to be made a further report stating:

(*a*) Whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work;

(*b*) If inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work, and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it. *New. See* 3 Edw. VII., c. 19, s. 664, par. 5.

S. 29 is new in form but covers in part the ground of s. 671 (2-4). In most cases the information provided for by this section would be required by a general by-law passed under s. 667 or 682, but it is thought advisable that there should be such a general provision setting out the information to be obtained.

30. The Council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in section 29 in such manner and by such officer of the corporation or person as the Council may deem proper, and may do so by a general by-law applicable to all works or

How reports, statements, etc., to be made.

to any class or classes of them or by a by-law applicable to the particular work. *New. See* 3 Edw. VII., c. 19, s. 667.

S. 30 is new in form but is substantially the same as s. 667.

Holding of Court of Revision.

31.—(1) Before a special assessment is imposed a sittings of the Court of Revision, for the hearing of complaints against the proposed special assessment, shall be held.

Time and place of.

(2) Ten days' notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice (Form 3) shall be mailed to the owner of every lot which is to be specially assessed. 3 Edw. VII., c. 19, s. 671 (1) *last part* and (2-3). *Amended.*

The changes made are only verbal.

Special assessment roll to be kept open for ten days.

32. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the Court of Revision. 3 Edw. VII., c. 19, s. 671 (4). *Amended.*

S. 32 goes farther than s. 671 (4). Under that subsection the council is only required to procure a statement showing the measurements of the frontage liable to be assessed and of the frontages exempt from taxation. The special assessment roll would contain much more information. (See s. 29.)

Statement of cost of work for Court of Revision.

33. A statement showing under appropriate heads the cost of the work, verified by the certificate of the Clerk, Assessment Commissioner or Treasurer of the municipality shall be delivered to the Chairman of the Court of Revision before the meeting of the Court. *New.*

Is new and is required because the cost of the work is proposed to be made a matter of appeal to the Court of Revision and the county judge.

Powers of Court.

34. The Court of Revision shall have jurisdiction and power to review the proposed special assessment and also to correct all errors and omissions in it as to all or any of the following matters:

(*a*) Where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work, as to the following matters:

(i) The names of the owners of the lots;

(ii) The frontage or other measurements of the lots;

(iii) The amount of the reduction to be made under the provisions of section 23 in respect of any lot;

(iv) As to the lots which, but for the provisions of section 47, would be exempt from special assessment; and

(v) As to the lifetime of the work.

(*b*) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in subsection 1, as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear. 3 Edw. VII., c. 19, s. 671 (5). *Part amended.*

(*c*) In all cases as to the cost of the work. *New.*

The additional powers given to the Court of Revision by this section are as to the lifetime and as to the cost of the work and as to what land is exempt from assessment. At present the Court of Revision has no power to determine as to these matters, they being determined by the engineer or other officer of the council. Section 671 (5) gives power to determine the proportion of cost to be borne by the corporation where the cost exceeds the estimate by 10 per cent. As it is proposed to defer the Court of Revision until the work has been completed, there is no need any longer for such a provision nor for the latter part of s. 671 (8) providing for the holding of a Court of Revision where the actual cost exceeds the estimated cost by more than 10 per cent.

Adjourned sittings of Court in case of omission to assess certain lots.

35.—(1) Where it appears to the Court of Revision that any lot which has not been specially assessed should be specially assessed, before finally determining the matter the Court shall adjourn its sittings to a future day and shall cause notice (Form 3) to be given to the owner of every such lot of the time and place when the adjourned sittings will be held.

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

(3) If the Court of Revision determines that any such lot ought to be specially assessed, the Court shall have jurisdiction and power to fix and determine the amount of the

special assessment thereon. 3 Edw. VII., c. 19, s. 671 (6). *Amended.*

S. 35 is wider than the present s. 671 (6), which only gives this power to the County Judge in the case of cities and towns.

When special assessment roll to be final.

36. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the Court of Revision, and the roll when so corrected shall be certified by the clerk, and when so certified, except in so far as it may be further amended on appeal to the Judge, shall be valid and binding upon all persons concerned and upon the land specially assessed, notwithstanding any defect, error or omission therein or any defect or error in any notice given or proceeding taken or the omission of any proceeding or thing which ought to have been taken or done before the completion of such revision. 3 Edw. VII., c. 19, s. 671 (7). *Amended.*

The first part making it the duty of the Clerk to make corrections in the special assessment roll is new. The latter part providing for the finality of the roll is a re-draft of s. 671 (7) setting out in detail as to what matters the roll when certified is to be final and follows closely s. 66 of The Assessment Act.

Appeal to County Judge.

37.—(1) The Council or the owner of a lot specially assessed may appeal to the Judge of the County Court from any decision of the Court of Revision.

Application of 4 Edw. VII., c. 23.

(2) The provisions of *The Assessment Act* as to appeals to the Judge shall apply to an appeal under the provisions of subsection 1.

Powers of judge.

(3) The Judge shall have the like jurisdiction and powers as are conferred on the Court of Revision by section 34, and the provisions of section 35 shall apply where the Judge determines that any lot not specially assessed ought to be so assessed. 3 Edw. VII., c. 19, s. 671 (5). *Part amended.*

Verbal changes only.

BORROWING POWERS.

Temporary loans.

38.—(1) The Council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it. 3 Edw. VII., c. 19, s. 672 (1) *First part amended.*

(2) The Council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed. 3 Edw. VII., c. 19, s. 672 (1), *last part* and s. 685 (1). *Amended.* Issue of debentures.

(3) The provisions of *The Consolidated Municipal Act, 1903*, as to by-laws for creating debts shall apply to by-laws passed under the authority of subsection 2, except that it shall not be necessary Application of 3 Edw. VII., c. 19.

(*a*) That the by-law be submitted to or receive the assent of the electors. 3 Edw. VII., c. 19, s. 679 (2) *first part* and *see* s. 685 (1).

(*b*) That any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it. *New.*

(*c*) To comply with the provisions of paragraphs 2, 3 and 4 of section 338 of *The Consolidated Municipal Act, 1903*. 3 Edw. VII., c. 19, s. 671 (1). *First part amended.*

And except that the debentures, save as provided by section 40, shall be payable within the lifetime of the work. 3 Edw. VII., c. 19, s. 672 (2). *First part amended.*

(4) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under the authority of subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose. *New.* Special rates for owner's portion to form special fund.

(5) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of the debentures which represent the owners' portion of the cost the Council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate. *New. See* 3 Edw. VII., c. 19, s. 665 (2). General rate to meet deficiency in special rate.

(6) The amount borrowed under the provisions of subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of section 384 of *The Con-* Owner's portion not to be deemed part of debenture debt of corporation.

solidated Municipal Act, 1903. 3 Edw. VII., c. 19, s. 685 (2). *First part amended.*

Corporation's portion may be included in yearly estimates.

(7) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken the Council may include the same in the estimates of the year. *New. See* s. 679 (1), *last part.*

(1) Verbal changes only.

(2) It is proposed that there should be but one by-law providing for the issue of debentures covering the ratepayers' and the corporation's share of the cost. While there would be only one issue of debentures the rate imposed for the corporation's share would be distinct from the special rate imposed for the ratepayers' share. Under s. 679 (2) there may be separate issues of debentures for the ratepayers' share and for the corporation's share. It is also proposed that all the debentures should be a direct liability of the corporation, instead of leaving it optional with the corporation to guarantee the debentures for the ratepayers' share. Although the power to guarantee is almost invariably used, it is thought that the debentures would sell to better advantage if they formed a direct liability of the corporation in the first instance. It is proposed also to defer the issue of the debentures in every case until the completion of the work, allowing the corporation to borrow temporarily from a bank or a person as it may now do under s. 672 (1).

(3) Is new in form. Paragraphs 2, 3 and 4 of s. 338, mentioned in clause "c," refer to the publication of the by-law.

(4-5) Are new. As the debentures are made a direct liability of the corporation it follows that any deficiency in the special rate imposed should be made good by the corporation at large as is provided by (5).

(6) Verbal changes only.

(7) The council may prefer in the case of a small work to include its share in the estimates of the year instead of issuing debentures.

Consolidation of by-laws.

39.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 38 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Recitals.

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. *New. See* 3 Edw. VII., c. 19, s. 433. Rates not to be imposed by consolidating by-law.

This contains the principal features of s. 433 allowing the consolidation of local improvement by-laws.

S. 433 (1) providing that each local improvement debenture should bear the name "Local Improvement Debenture" is dropped because it is proposed to make all local improvement debentures a direct liability of the corporation, and in that case there is no object in earmarking them.

S. 433 (3) providing for the insertion of a clause in each by-law that it is subject to consolidation, (4) providing that no consolidated debenture shall be issued covering any debentures issued under any original by-law, and (5) giving power to pass one by-law covering several local improvement works, instead of individual by-laws for each particular work are dropped as unnecessary.

40.—(1) The Council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the Council shall prescribe but not so as to extend beyond the lifetime of the work, unless the work is of the class described in clause (*j*) of section 3, in which case the annual instalments may extend over a period of not more than 40 years. 3 Edw. VII., c. 19, s. 672 (2). *Last part amended.* Term of annual instalments of special assessment.

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added. *New.* Interest.

(3) The Council may also either by a general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. 3 Edw. VII., c. 19, s. 664, *par.* 7 *part.* Commutation of special rates.

(1) *Is a new draft of s. 672 (2).*
(3) *Verbal changes only.*

41. The provisions of sections 89 to 92 and the other provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assess- Application of 4 Edw. VII., c. 23, ss. 89-92.

ments and the special rates imposed for the payment of them. *New.*

The machinery of The Assessment Act has been introduced in order to make it clear that the special rates imposed may be collected when default has been made in payment as provided by the Assessment Act.

Where special assessments irregular new assessments may be made.

42. If a debt has been incurred by the corporation for or in respect of a work undertaken and after the incurring of the debt the special assessment for the work is found or adjudged to be invalid or the by-law for borrowing money to defray the cost of the work is quashed or set aside either wholly or in part by reason of any irregularity or illegality in making such assessment or in passing such by-law, the Council may cause a new assessment to be made or may pass a new by-law when and so often as may be necessary to provide the money required to be raised to discharge the debt so incurred. 3 Edw. VII., c. 19, s. 672 (3). *Amended.*

Verbal changes only.

EXEMPTION FROM GENERAL RATE.

Exemption of land specially assessed from general rate for like purpose.

43. All land specially assessed shall, during the lifetime of the work undertaken be exempt from so much of any rate as is imposed in respect of works of a like class or description not undertaken as local improvements, except so much of such rate as would have been imposed to meet the corporation's portion of the cost of the works if they had been undertaken as local improvements. 3 Edw. VII., c. 19, s. 680 (1). *Amended.*

Owing to s. 678, which allows the council of any municipality which has not adopted the local improvement system to assume any proportion of the cost of a sidewalk or pavement it is impracticable to draft a section which will work even justice all round because a municipality may assume 10 per cent. of the cost of one pavement and 90 per cent. of the cost of another. It is thought that owing to the provisions of s. 678, s. 43 of the Bill goes about as far as is practicable with regard to exemption from a general rate. While s. 678 provided that the municipality might assume a fixed 40 per cent. of the cost it was not difficult to work out the provisions of s. 680 as to exemption from general rate.

REPAIR OF WORK.

Maintenance and repair of work by corporation.

44.—(1) After a work undertaken has been completed it shall during its lifetime be kept in repair by and at the expense of the corporation. 3 Edw. VII., c. 19, s. 666 (1). *Part.*

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction, to which it is subject either at common law or under the provisions of *The Consolidated Municipal Act, 1903*, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation. 4 Edw. VII., c. 22, s. 31. *Amended.* General duty to repair not affected.

Verbal changes only.

45.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so does not put the work in repair, a Judge of the High Court, or the Judge of the County Court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair. 3 Edw. VII., c. 19, s. 666 (2). *Amended.* Compelling corporation to repair.

(2) The Judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper.

(3) Where a person under whose supervision the repairs are to be made is appointed, the Judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus.

(5) If the corporation does not comply with the order of the Judge, in addition to any other remedy to which the applicant for the order may be entitled, the Judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the Judge and when so ascertained and determined payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

(6) An appeal shall lie to a Divisional Court of the High Court from any order made under the provisions of this section, and the procedure where the appeal is from an order of

a Judge of the High Court shall be the same as on an appeal from an order made in an action in the High Court, and if the appeal is from an order of a Judge of a County Court the same as on an appeal from an appealable order made in an action in the County Court. *New.*

(1) Is practically s. 666 (2) with this change that the application under the new provision may be made by any owner or occupant of any land specially assessed while under s. 666 (2) the application must be made by a ratepayer whose property has been assessed for the work.

S. 45 (2-6) providing for the procedure and the method of enforcement of the Judge's order and for an appeal to a Divisional Court are new. There is nothing in the present law providing for the enforcement of the order. The latter part of s. 666 (2) provides only for an order being made respecting the keeping of a sidewalk in a reasonable and proper state of repair without providing any means for its enforcement.

ASSESSMENT OF LAND EXEMPT FROM TAXATION.

Certain lands exempt from taxation liable to be specially assessed.

46. Land on which a church or place of worship is erected, or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, which is exempt from taxation under *The Assessment Act,* except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed. 3 Edw. VII., c. 19, ss. 683, 684 (1). *Part amended.*

Land exempt from taxation for local improvements to be specially assessed.

47. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt, except those imposed under the authority of section 46, shall not be collected or collectable from the owner thereof but shall be paid by the corporation. 3 Edw. VII., c. 19, s. 684, *(1) part and (2) amended.*

Is practically new. The latter part of s. 684 (1) provides that in case of lands which are held by a school board or a municipality under a lease which does not extend over the whole period of the special assessment that the municipality is to pay the special assessment during the period of the lease, but it is impossible to work out s. 684 (2) which provides that in the case of other land exempt from a local improvement rate such land shall be specially assessed as soon

as the period of exemption has expired because this would necessitate the readjustment of the whole special assessment. It is thought advisable to treat all land exempt from taxation as though it were liable, making the corporation pay the assessment while the land is exempt. The land being specially assessed, it automatically becomes liable to pay the rate when it ceases to be exempt.

OTHER WORKS AND SERVICES WHICH MAY BE UNDERTAKEN AS LOCAL IMPROVEMENTS.

Cleaning, watering, lighting streets, etc.

48.—(1) The council may by by-law provide that the annual cost of cleaning, clearing of snow and ice, watering, sweeping, lighting, cutting grass and weeds, and trimming trees and shrubbery on any street, or any one or more of such services shall be specially assessed upon the land abutting directly on such street.

(2) Instead of naming the particular street or streets the by-law may apply to all the streets in a defined section or sections of the municipality.

(3) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes. 3 Edw. VII., c. 19, ss. 682 (3) and 686. *Amended.*

Is a combination of s. 682 (3) and s. 686. S. 682 (3) relates only to a municipality which has adopted the local improvement system, and in addition to the matters mentioned in the new section power is given to maintain and repair the streets as a local improvement. This power clearly relieves the council of the duty to maintain and keep the work in repair during its lifetime at the general expense, and it has been omitted. Sec. 686 gives power to every municipality to pass by-laws for the purposes mentioned in new section upon the petition of at least two-thirds of the residents on any street representing one-half of the land to be assessed. As these two sections deal with similar matters it is thought well to combine them.

Waterworks and fire engines.

49.—(1) The council of a township or village and the Board of Police Trustees of a police village may undertake as a local improvement

(*a*) The construction of waterworks.

(*b*) The purchase of fire engines and other appliances for the purpose of fire protection;

(*c*) The laying of mains and other appliances to connect with any existing system of water works, whether owned by the corporation or by any other person.

(2) The council, by the by-law for undertaking the work, may provide that the owners' portion of the cost shall be specially assessed against the land in any defined section or sections of the municipality and that the annual cost of managing and maintaining the work shall be assessed against and levied upon such land. 3 Edw. VII., c. 19, s. 687 (1-2); 10 Edw. VII., c. 85, s. 17. *Amended.*

Trustees for managing fire engines and appliances.

(3) In the case of the purchase of fire engines and other appliances for the purpose of fire protection, the council or board of police trustees may, by by-law, provide for

(*a*) The election of a board of three trustees; and the time and manner of holding the election.

(*b*) The term of office of such trustees;

(*c*) Filling vacancies in such board;

(*d*) The election of an auditor;

(*e*) The appointment of a second auditor by such board;

(*f*) The duties of such auditors.

7 Edw. VII., c. 40, s. 35. *Amended.*

Care and control of fire engines, etc.

(4) The board of trustees shall have the care, control and management of such fire engines and appliances. 3 Edw. VII., c. 19, s. 687 (5).

Qualification of voters for election of trustees.

(5) No person shall be entitled to vote at the election of such trustees unless he is the owner of land to be specially assessed under the provisions of subsection 2, and is also qualified to vote at municipal elections. 3 Edw. VII., c. 19, s. 687 (6). *Amended.*

S. 49 is a redraft of s. 687 (1-6) except that "lighting the municipality" is included in the old section.

The chief object of such a section is to allow a township or village to exercise such power with reference to a well populated section or district.

ADOPTION OF LOCAL IMPROVEMENT SYSTEM.

Adoption of local improvement system.

50.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with the provisions of *The Consolidated Municipal Act, 1903,* may

provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise.

Repeal of By-law.

(2) The by-law may be repealed, but only by a by-law passed with the like assent. 3 Edw. VII. c. 19, s. 682 (1) and (2). *Part, amended.*

Exemption from general rate of land specially assessed.

(3) After the repeal of the by-law any lot specially assessed for a work shall during the lifetime of the work be exempt from any general rate, as provided by section 43. 3 Edw. VII., c. 19, s. 682 (2). *Part amended.*

Verbal changes only.

MISCELLANEOUS.

Special rates and covenant against incumbrances.

51. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid shall not, as between a vendor and a purchaser, or as respects a covenant against incumbrances, or for the right to convey, or for quiet possession free from incumbrances, be deemed to be an incumbrance upon the land upon which the special rate is charged or chargeable. 3 Edw. VII., c. 19, s. 681. *Amended.*

Is a redraft of s. 681 and has been extended in consequence of the decision in re *Taylor and Martyn, 14 O.L.R. 132.*

When work may be completed.

52. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. *New, see* 3 Edw. VII., c. 19, s. 669 (4).

New in form only.

Municipal Board may prescribe forms.

53. The Ontario Railway and Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto. *New. See* 3 Edw. VII., c. 19, s. 670.

It is thought that the giving of such a power to the Railway and Municipal Board will facilitate the work of a munici-

pality and provide a uniform procedure for the working out of the local improvement sections.

Repeal.

54. Sections 385, 433 and 664 to 693 of *The Consolidated Municipal Act, 1903*, and all amendments thereto are repealed.

FORM 1.

SECTION 11.

Take notice that

1. The Council of the Corporation of the of intends to construct as a local improvement (*describe the work*) on (*or* in) street, between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The reports of the engineer, a statement showing the land to be specially assessed and the names of the owners are now filed in the office of the Clerk, and are open for inspection during office hours.

3. The estimated cost of the work is $, of which $ is to be paid by the Corporation. The special rate per foot frontage is . The special assessment is to be paid in annual instalments.

4. A petition against the work will not avail to prevent its construction.

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

FORM 2.

SECTION 13.

Take notice that

1. The Council of the Municipal Corporation of the of intends to construct (*describe the work*) on (*or* in) street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The reports of the engineer, a statement showing the land to be specially assessed and the names of the owners thereof are now filed in the office of the Clerk and are open for inspection during office hours.

3. The estimated cost of the work is $, of which $ is to be paid by the Corporation, and the special rate per foot frontage is . The special assessment is

to be paid in annual instalments.

4. Persons desiring to petition against undertaking the work must do so on or before the day of 19 .

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

FORM 3.

SECTIONS 31 (2) AND 35.

Take notice that

1. The Council of the Corporation of the of has constructed as a local improvement (*describe the work*) on (*or* in) street between (*describe the points between which the work has been constructed*).

2. The cost of the work is $, of which $ is to be paid by the Corporation. The special rate per foot frontage is . The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. A Court of Revision will be held on the day 19 , at o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint which persons interested may desire to make and which is by law cognizable by the Court.

or (*where the Court of Revision proceeds under section 35*).

4. You are served with this notice because the Court of Revision is of opinion that your lot though not specially assessed should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the Court will be held on the day of 19 , at o'clock at the (*insert place of meeting*) when the matter will be determined by the Court.

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

SCHEDULE.

Showing how s.s 385, 433 and 664 to 693 of the Consolidated Municipal Act 1903 have been disposed of.

S. 385	Dealing with recitals in a Local Improvement By-law and giving power to a municipality to guarantee the debentures dropped as debentures are made a direct liability of the corporation under the Bill.
" 433 (1) and (3-5)	dropped for reasons mentioned in note to s. 39
" 433 (2)	covered by ..... s. 39
" 664 pars. 1 and 2	covered by ..... s. 3 (1)
" 664 par. 3	dropped for reasons mentioned in note to s. 3.
" 664 par. 4	covered by ..... s. 29 (c)
" 664 par. 5	covered by ..... s. 29
" 664 par. 6	covered by ..... s. 18 (1)
" 664 par. 7 first part	covered by ..... s. 40 (1)
" 664 par. 7 last part	covered by ..... s. 40 (3)
" 664 par. 8	Giving power to construct works with money provided by persons desiring such works struck out because no advantage has been taken of it and because it conflicts with the ordinary procedure prescribed for local improvement works.
" 664a	covered by ..... s. 20 See note to s. 20 as to exempt property.
" 665 (1)	covered by ..... s. 18 (1)
" 665 (2) first part	covered by ..... s. 38 (5)
" 665 (2) last part	Providing for refunding where too large a sum has been raised, struck out as unnecessary.
" 665 (3)	Has been dropped. This subsection deals only with the case of a township situate within five miles of a city having a population of over 50,000, and gives power upon petition of ¾ in number of the owners representing ¾ in value of non-abutting lands benefited by the work to assess a part of the cost of the work against such lands either by a frontage rate or by a special rate according to the proportion of benefit received. Under the Bill every township has power to assess non-abutting lands in the case of certain sewers, and in the case of a bridge, in the opening, widening or extension of a street (see ss. 24, 25), but the rate in all cases is to be according to frontage.
" 666 (1) first part	covered by ..... s. 3 (2)
" 666 (1) last part	covered by ..... s. 44
" 666 (2)	covered by ..... s. 45 (1)
" 667	covered by ..... s. 30
" 668 (1) first part	covered by ..... s. 12
" 668 (1) middle part	covered by ..... s. 2 (p) and 15 (1)
" 668 (1) last part	covered by ..... s. 17
" 668 (2-3)	covered by ..... s. 2 (p)
" 668 (4)	covered by ..... s. 10
" 669 (1) first part	covered by ..... s. 13 (1)
" 669 (1) last part	covered by ..... s. 13 (3)
" 669 (1a) first part	covered by ..... s. 13 (4)
" 669 (1a) last part	covered by ..... s. 13 (7)
" 669 (1b)	covered by ..... s. 13 (2)
" 669 (2)	covered by ..... s. 14 (1)

S. 669 (3) first part	covered by ..... s. 2 (p) and s. 15 (1-3)
" 669 (3) last part	covered by ..... s. 17
" 669 (4)	covered by ..... s. 52
" 669 (5)	covered by ..... s. 15 (4)
" 670	Providing for a short form of local improvement by-law has been dropped as it is thought that to a large extent the wording of the short form by itself would carry the meaning of the long form. In any case it is thought it would be better to give the Railway and Municipal Board power to prescribe forms. See s. 53.
" 671 (1) first part	covered by ..... s. 38 (3)
" 671 (1) last part	covered by ..... s. 31 (1)
" 671 (2-3)	covered by ..... s. 31 (2)
" 671 (4)	covered by .....ss. 29 (f) and 32
" 671 (5) first part	covered by ..... s. 34
" 671 (5) last part	covered by ..... s. 37
" 671 (6)	covered by ..... s. 35
" 671 (7)	covered by ..... s. 36
" 671 (8)	Providing for the holding of a second Court of Revision where the actual cost exceeds the estimated cost by more than 10% has been dropped because under the Bill the Court of Revision is not to be held until the work is completed.
" 672 (1) first part	covered by ..... s. 38 (1)
" 672 (1) last part	covered by ..... s. 38 (2)
" 672 (2) first part	covered by ..... s. 38 (3) last part
" 672 (2) last part	covered by ..... s. 40 (1)
" 672 (3)	covered by ..... s. 42
" 672 (4)	Providing that no assessment should be made and no work undertaken unless initiated in one of the methods authorized by the Act, struck out as unnecessary.
" 672*a*	Giving power to settle with a contractor as upon a quantum meruit where the work has not been done in strict compliance with the contract, struck out as unnecessary.
" 673 (1)	covered by ..... s. 4
" 673 (2)	covered by ..... s. 25 (1)
" 673 (2*a*)	covered by ..... s. 5
" 673 (2*b*)	covered by ..... s. 21
" 673 (3)	covered by ..... s. 4
" 673 (4)	covered by ..... s. 23 (1)
" 673 (5)	Allowing a refund of special rates imposed prior to 30th March, 1885, on corner lots dropped, as spent.
" 673 (6)	covered by ..... s. 23 (2)
" 673 (7)	Providing for the assessment of land fronting on a park, square, public drive or boulevard struck out, as under the Bill such land would only be assessed for its proper proportion.
" 674 (1-2)	covered by ..... s. 26 (1)
" 674 (3)	Giving power to a township in case of a bridge or the opening, widening or extension of a street to levy cost by a special rate according to benefit instead of by a frontage rate, struck out, as only frontage rate is retained, although non-abutting land may be divided into districts according to the proportion of benefit received.

S. 674 (4)	covered by ..... s. 6
" 675	covered by ..... s. 26 (1)
" 675*a*	Giving power to a city having over 100,000 inhabitants to pave or macadamize a roadway on report of engineer and in spite of petition, struck out as unnecessary, as such work may now be done under s. 677 as amended.
" 675*b*	covered by ..... s. 26 (1)
" 676	Allowing owners to construct sidewalks under direction of the council and exempting them from taxes for a like purpose, struck out as not being of any practical service.
" 677	covered by ..... s. 9
" 677*a*	covered by ..... s. 9
" 677*b*	Providing that money may be borrowed and debentures issued for works constructed under s. 677, struck out as unnecessary, as it is quite clear that such is the case under the Bill.
" 678	covered by ..... s. 22
" 678*a*	Being a special provision allowing owners of land on both sides of a street to agree that the cost of a sidewalk shall be assessed against land on both sides, and that for a certain period no sidewalk shall be constructed on the other side and providing for a readjustment of assessment when a sidewalk is constructed on the other side, has been dropped, as it is difficult to see how such a section can be worked out. In order to remove doubts, s. 24, providing for assessment of cost of sidewalk on one side only, has been inserted.
" 679 (1)	covered by ..... s. 20
" 679 (2) first part	covered by ..... s. 38 (3) *cl.a*
" 679 (2) last part	Allowing a separate issue of debentures for owner's share and corporation share and earmarking the debentures as "local improvement debentures" has been struck out, as it is proposed that there should be one issue for both shares and that the debentures should form a direct liability of the corporation.
" 679*a*	covered by ..... s. 19
" 680 (1)	covered by ..... s. 43
" 680 (2-4)	Providing that where a local improvement is petitioned for by two-thirds of the owners of the land fronting on the work the exemption from a general rate may be determined by a sole arbitrator to be chosen by the county judge have been dropped. These subsections only apply to the case of a petition for a work, so that as the section now stands there is no provision for putting an end to the period of exemption if the work has been undertaken by one of the other methods authorized. When these subsections were enacted in 1883 there was no provision for the initiation of local improvements otherwise than by the council, and they had therefore at that time no application and

S. 680 (2-4).—*Con.* apparently have through inadvertence been allowed to remain in the Act. See Biggar's Municipal Manual, page 944, Note (*a*).

The new section 43 provides that the period of exemption shall be for the lifetime of the work.

" 680 (5-6) Requiring the council to designate by by-law what part of the general rate is for purposes for which there is a special assessment in any part of the municipality and providing that until such by-law has been passed no money raised by general rate on land specially assessed shall be expended, have also been dropped.

On enquiry it was found that these provisions have to a large extent been disregarded on account of the difficulty of working them out and this difficulty has only been increased by the extension of the power of the corporation to assume any proportion of the cost of certain works.

" 681 covered by ..... s. 51
" 682 (1-2) covered by ..... s. 50
" 682 (3) covered by ..... s. 48
" 683 covered by ..... s. 46
" 684 (1) first part covered by ..... s. 46
" 684 (1) last part covered by ..... s. 47
" 684 (2) covered by ..... s. 47
" 685 (1) first part covered by ..... s. 38 (2-3)

" 685 (1) last part Providing that nothing in the section should authorize the extension of the general debt of the municipality beyond the limits prescribed by any Act, dropped as unnecessary.

" 685 (2) first part covered by ..... s. 38 (6)

" 685 (2) last part Dealing with recitals as to general debt in local improvement by-law dropped, as it is proposed to do away with such recitals.

" 686 covered by ..... s. 48
" 687 (1-6) covered by ..... s. 49

" 687 (7-8) Allowing two or more adjoining municipalities to purchase fire engines and road-making machinery and assess the cost thereof and of managing and maintaining the same as local improvements dropped, as it is impracticable to apply the local improvement machinery to two municipalities acting jointly.

It is proposed to retain the power to purchase jointly for these purposes in the general provisions of the Municipal Act.

687*a* Enacted by 8 Edw. VII., c. 48, s. 27, giving power to a village or township on petition of two-thirds of the owners affected to lay water-mains and connect them with the water-works system of an adjoining city or town, has been dropped, as sufficiently covered by s. 49.

" 688 Giving power to a township on petition of two-thirds of the owners representing one-half in value of the land proposed to

S. 688.—*Con.* be assessed to maintain and repair a highway which is an abandoned toll road, has been dropped. It is very unlikely that two-thirds of the owners would petition for such a purpose, especially in view of the fact that under s. 103 of The General Road Companies Act the municipality is obliged to keep such a road in repair at the general expense.

" 689 Giving power to a township on petition of all the owners of land to be especially assessed to macadamize, gravel, drain or improve a highway or to build a bridge in connection therewith, even though the work may extend beyond the limits of the municipality and making the provisions of The Drainage Act apply has been dropped, as it is hardly possible that all owners would petition, and it is doubtful whether in the case of macadamizing or gravelling a road a municipality should have power to go beyond its limits.

As to a drainage work extending outside the limits of a municipality that should be effected under The Drainage Act.

" 690 This section providing for exemption from general rate has been dropped, as it only applies to s. 689.

" 691-692 Giving power to a county to make, repair or improve a road, bridge or public work in a township or between parts of two townships by a special assessment on the lands benefited, upon petition by two-thirds of the owners of such land, have been dropped, as it is found on enquiry that such a power has seldom been used, especially of late years, and it is doubtful whether a county should have power to effect such works as local improvements.

The other local improvement sections of the Act do not apply to counties.

See ss. 613 to 617 as to powers of counties *re* roads and bridges.

" 693 (1-6) Giving power to a county to assume and acquire a road, bridge or other public work in or adjacent to one or more townships, towns or villages, and to improve such road, bridge or public work by a special assessment on all the rateable property in such municipalities, has been dropped, as it is thought that the general powers of a county under ss. 613 to 617 are sufficient. Although the by-laws for such a purpose must be submitted to and approved of by the electors in the municipalities affected, the section provides that in case it is defeated in one or more municipalities it may still be passed with reference to the municipalities in which it carried, the money to be raised by the by-law being reduced by the amount for which the municipalities in which it was defeated would have been liable if it had carried. In such a case the municipalities which defeated the by-law would benefit by the work without being liable to pay any part of the cost.

No. 100.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Amend The Consolidated Municipal Act, 1903, with respect to Local Improvements.

First Reading.

Mr. Hanna.

TORONTO:
Printed by L. K. Cameron.
Printer to the King's Most Excellent Majesty.

No. 100. 1911.

BILL

An Act to Amend The Consolidated Municipal Act, 1903, with respect to Local Improvements.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Local Improvement Sections of The Municipal Act. New.* Short title.

INTERPRETATION.

2. In this Act:— Interpretation.

(*a*) "Bridge" shall include a viaduct, a culvert, a subway and an embankment and shall also include a pavement on a bridge.

(*b*) "Clerk" shall mean and include the clerk of the municipality and any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk.

(*c*) "Constructing" and "construction" shall include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired.

(*d*) "Corporation" shall include the corporation of a municipality other than a police village and a board of police trustees of a police village.

(*e*) "Corporation's portion of the cost" shall mean that part or proportion of the cost of a work which is not to be specially assessed, but is payable by the corporation.

(*f*) "Council" shall mean the council of the corporation of a municipality other than a police village and the board of police trustees of a police village as the case may be.

(*g*) "County" shall include "district."

(*h*) "Court of Revision" in the case of a police village shall mean the board of police trustees of the police village.

(*i*) "Curbing" shall include a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter.

(*j*) "Engineer" shall include an officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by an engineer.

(*k*) "Frontage" when used in reference to a lot abutting directly on a work shall mean that side or limit of the lot which abuts directly on the work.

(*l*) "Judge of the County Court" shall mean and include the judge and a junior judge of a county or district court.

(*m*) "Lifetime" as applied or applicable to a work shall mean the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the Court of Revision or the judge (as the case may be).

(*n*) "Lot" shall mean a subdivision or a parcel of land which by *The Assessment Act* is required to be separately assessed, and "lots" shall mean more than one lot as so defined.

(*o*) "Municipality" shall include a union of townships, a municipality composed of more than one township, a township, a city, a town, a village, and a police village, but not a county. *New.*

(*p*) "Owner" and "owners," shall mean respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, shall include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but shall not include a person who is, or is assessed as, owner, where there is a tenant for years of the land, who is an owner within the meaning of this clause. 3 Edw. VII., c. 19, s. 668 (2-3). *Amended.*

(*q*) "Owners' portion of the cost" shall mean that part or proportion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work.

(*r*) "Pavement" shall include any description of pavement or roadway.

(*s*) "Paving" shall include macadamizing, planking, and the laying down or construction of any description of pavement or roadway ☞ and the construction of a curbing. ☜

(*t*) "Publication" and "published" shall mean insertion in a newspaper published in the municipality, if there is a newspaper published therein, or if there is none, then in a newspaper published in the county in which the municipality is situate.

(*u*) "Sewer" shall include a common sewer and a drain.

(*v*) "Sidewalk" shall include a footway and a street crossing.

(*w*) "Specially assessed" shall mean specially rated for or charged with part of the cost of a work.

(*x*) "Street" shall include a lane, an alley, a park, a square, a public drive and a public place or a part of any of them.

(*y*) "Value" shall mean assessed value, *exclusive of buildings*, according to the last revised assessment roll of the municipality.

(*z*) "Work" shall mean a work or service which may be undertaken as a local improvement.

(*aa*) "Work undertaken" shall mean a work which is undertaken as a local improvement. *New.*

WORKS WHICH MAY BE UNDERTAKEN AS LOCAL IMPROVEMENTS

Works which may be effected as local improvements.

3.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement, that is to say:

(*a*) Opening, widening, extending, *grading*, altering the grade of, diverting or improving a street;

(*b*) Opening or establishing a new street;

(*c*) Constructing a bridge as part of a street;

(*d*) Constructing, enlarging or extending a sewer;

(*e*) Paving a street;

(*f*) Constructing a sidewalk in, upon or along a street;

(*g*) Constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;

(*h*) Sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;

(*i*) The extension of a system of water, gas, light, heat or power works owned by the corporation, inincluding all such works as may be necessary for supplying water, gas, light, heat or power to the owners of land, for whose benefit such extension is provided.

(*j*) Acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive. 3 Edw. VII. c. 19, s. 664, pars. 1-3. *Amended.*

(*k*) Constructing, on petition only, retaining walls, dykes or breakwaters along the banks of rivers, but this clause shall only apply to a city or town. *New.*

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance. 3 Edw. VII., c. 19, s. 666 (1). *Part.*

What works may be undertaken in connection with a sewer or pavement.

4.—(1) Where the work is the construction of a pavement, the Council, before constructing it, may make all necessary private drain connections from an existing sewer to the street line on either or both sides, and may also lay all necessary water mains and gas mains, where gas works are owned by the Corporation, and make such alterations or renewals of water service pipes and stopcocks, and, where gas works are owned by the Corporation, of gas connections as are necessitated by the work, and where the work is the construction of a sewer the Council may make all necessary private drain connections to the street line on either or both sides, but the cost of the private drain connection, alteration or renewal of a water service pipe, stopcock *or gas connection* shall be specially assessed only upon the particular lot for or in connection with which it was constructed or effected. 3 Edw. VII., c. 19, s. 673 (1), (3). *Amended.*

(2) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement or sewer in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection. *New.*

(3) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or gas connection shall be the cost thereof from the centre of the street to the street line whether or not the sewer or water or gas main is laid in the centre of the street. *New. See* 6 Edw. VII., c. 34, s. 37, *last part.*

Construction of private drain connections without petition.

5. Where a sewer has been or may hereafter be constructed the Council, by a vote of two-thirds of *all* the members *thereof* present at any general or special meeting, may undertake the construction of private drain connections from the sewer to the street line on either or both sides as a local improvement without any petition therefor and the cost of each private drain connection shall be specially assessed upon the particular lot for or in connection with which it is constructed, and the owners of the land shall not have the right of petition provided for by section 13, and the provisions of subsection (3) of section 4 shall apply. 6 Edw. VII., c. 34, s. 37. *Amended.*

Purchase by township of works already constructed.

6. In a township where the owners of land have constructed a work which might have been undertaken as a local improvement the Council, upon the petition of three-fourths

in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under the provisions of *The Consolidated Municipal Act, 1903*, and the purchase money may be provided by the Council and may be assessed in like manner as if the work were a work which the Council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the Council were undertaking the work so acquired as a local improvement. 3 Edw. VII., c. 19, s. 674 (4). *Amended.*

Approval of Ont. Ry. and Municipal Bd. required in the case of certain works.

7.—(1) Where the work is the opening, widening, or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed *$50,000*, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the Council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and if such notice is given the work shall not be undertaken without the approval of "The Ontario Railway and Municipal Board."

Approval may be withheld.

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as shall request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so the Board may withhold its approval.

Apportionment of cost of work.

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the Council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order (as the case may be).

(4) The Board, instead of making an order under subsection 3, may direct that if the work is undertaken such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and if the Council undertakes the work it shall conform with the directions of the order so made. *New.*

(5) ☞ The special assessments upon the lots shall not be made by the Board, but by the Council, in accordance with the provisions of this Act. ☜

PROCEDURE FOR UNDERTAKING WORK.

Methods of undertaking works.

8.—(1) A by-law may be passed for undertaking a work *as a local improvement*

(*a*) On petition, or

(*b*) Without petition, on the initiative of the Council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (*j*) of section 3, or

(*c*) On sanitary grounds, as mentioned in section 10, or

(*d*) Without petition in the cases mentioned in sections 5 and 9. *New.*

(2) ☞ Instead of passing separate by-laws for each work the Council may pass one by-law in respect of several works. *New.* ☜

Construction of certain works on a two-thirds vote of council without petition.

9.—(1) Notwithstanding anything to the contrary contained in this or any other Act or in any by-law of the municipality, where the Council determines and by by-law, passed at *any general* or special meeting by a vote of two-thirds of *all* the members *thereof*, declares that it is desirable that the construction of a curbing, pavement, sidewalk or bridge, or the opening, widening or extension of a street, should be undertaken as a local improvement, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 3 Edw. VII., c. 19, s. 677. *Amended.*

(2) Subsection (1) shall not apply to a township.

Construction of sewer on recommendation of Board of Health.

10. Where the Council, upon the recommendation of the Provincial Board of Health or of the Local Board of Health of the municipality, determines and by by-law passed at a regular or special meeting of the Council by a vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer as a local improvement is necessary or desirable in the public interest on sanitary grounds, the Council may undertake the work without petition and without giving any notice except the notice required by section 33, and the owners of the land shall not have the right of petition provided for by section 13. 3 Edw. VII., c. 19, s. 668. *Par.* 4 *amended.*

Publication of notice of intention.

11. Where it is intended to proceed under sections 5, 9 or 10 the Council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention (Form 1) to be published.

Number of signatures to petition required.

12. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half the value of the lots liable to be specially assessed. 3 Edw. VII., c. 19, s. 668 (1). *First part amended.*

Initiative plan—publication and service of notice of intention to construct work.

13.—(1) Where the Council proceeds on the initiative plan, notice of the intention of the Council to undertake the work (Form 2) shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed; and unless within one month after the *first* publication of the notice a majority of the owners representing at least one-half the value of the lots which are liable to be specially assessed petition the Council not to proceed with it, the work may be undertaken as a local improvement. 3 Edw. VII., c. 19, s. 669 (1) *Part amended.*

Contents of notice.

(2) The notice shall be sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which the work is to be effected, and the number of the instalments by which the special assessment is to be payable. 3 Edw. VII., c. 19, s. 669 (1*b*). *Amended.*

May cover different works.

(3) The notice may relate to and include any number of different works. 3 Edw. VII., c. 19, s. 669 (1). *Part amended.*

Manner of service.

(4) The notice may be served upon the owner

(*a*) Personally, or

(*b*) By leaving it at his place of business or of residence if within the municipality, or

(*c*) By mailing it at a post office within the municipality addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality, or

(*d*) If the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon. 3 Edw. VII., c. 19, s. 669 (1*a*). *First part amended.*

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed, service upon the owner shall not be requisite. *New.*

Where residence, etc., unknown.

(6) If the place of business or of residence of the owner do not appear upon the assessment roll, the owner may be treated and dealt with as an owner whose place of business and of residence are unknown. *New.*

Where residence, etc., is not in assessment roll.

(7) Publication and service of the notice may be proved by affidavit or statutory declaration and the affidavit or statutory declaration, before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be *prima facie* evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth in the affidavit or statutory declaration. 3 Edw. VII., c. 19, s. 669 (1*a*). *Last part amended.*

Proof of publication and service.

14.—(1) Where the Council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under the provisions of section 13, the Council shall not proceed on the initiative plan with regard to the same work for the period of two years after the presentation of the petition: Provided always that in a municipality in which a by-law passed under the provisions of section 51 is in force the prohibition contained in this section shall not prevent the Council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken. 3 Edw. VII., c. 19, s. 669 (2). *Amended.*

Effect of petition against work.

Proviso.

(2) Nothing in this section shall prevent the Council from exercising the power conferred by section 9. *New.*

15. ☞ There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it. *New.* ☜

16.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive. *New, see* 3 Edw. VII., c. 19, s. 668 (1).

Clerk to determine sufficiency of petition.

(2) ☞ Where the sufficiency of a petition has been determined by the Clerk it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may

What owners to be counted.

be made by the Court of Revision or by the Judge in the lots to be specially assessed which have the effect of increasing or reducing the number of the lots. *New.*

Determining value of lots.

(3) When it is necessary to determine the value of any lot and the same cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of such lot and the value thereof as so fixed and determined shall be deemed for the purposes of this Act to be the assessed value thereof, and his determination shall be final and conclusive. *New. See* 3 Edw. VII., c. 19, s. 669 (3).

Owner whose name is not on roll may petition.

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership *is proved* to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition. 3 Edw. VII., c. 19, s. 669 (5). *Amended.*

Case of joint owners.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition

(*a*) They shall be reckoned as one owner only;

(*b*) They shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition. *New.*

Witnesses.

(6) The clerk, for the purpose of any inquiry pending before him under the provisions of this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the County Court of the county in which the municipality lies. *New.*

Witness fees.

(7) A witness, if a resident of the municipality, shall be bound to attend without payment of any fees or conduct money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the County Court scale. *New.*

Complaints to be investigated by county judge.

(8) Where any person complains to the clerk that his signature to the petition was obtained by fraud, misrepresentation or duress the complaint shall be investigated and

determined by a Judge of the County Court and the Clerk shall delay certifying until he has received the finding or report of the Judge upon the complaint and in determining as to the sufficiency of the petition the clerk shall give effect to such finding or report. ☜

17. A petition for or against the undertaking of a work shall be lodged with the clerk and shall be deemed to be presented to the Council when it is so lodged. *New.* Petitions to be lodged with clerk.

18. No person shall have the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. Withdrawal of name from petition.

Proviso.

HOW COST OF WORK TO BE BORNE.

19.—(1) Except as in this Act is otherwise expressly provided, the entire cost of a work *undertaken* shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost. 3 Edw. VII., c. 19, s. 665 (1). *Amended.* Frontage rate.

(2) The following may be included in the cost of the work: Items which may be included in cost.

(*a*) Engineering expenses.

(*b*) Cost of advertising and service of notices.

(*c*) Interest on temporary loans.

(*d*) Compensation for lands taken for the purposes of the work or injuriously affected by it ☞ and the expenses incurred by the Corporation in connection with determining such compensation. ☜

(*e*) The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them. *New.*

20. Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work Guarantee of work.

no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required. 9 Edw. VII., c. 73, s. 35. *Amended.*

Corporation portion of cost.

21. There shall be included in the corporation's portion of the cost—

(*a*) At least one-third of the cost of a sewer having a sectional area of more than four feet; and

(*b*) The entire cost of all culverts and other works in connection with a sewer or pavement which are provided and are required for surface drainage; and

(*c*) So much of the cost of a work as is incurred at street intersections. 3 Edw. VII., c. 19, s. 664*a* and s. 679 (1). *Amended.*

Apportionment of cost of sewers.

22.—(1) Where the work is the construction of a sewer the Council may, by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer shall be borne by the corporation. 7 Edw. VII., c. 40, s. 32. *Amended.*

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 21, is to be included in the corporation's portion of the cost. *New.*

Corporation may assume part of cost of sidewalk or pavement.

23.—(1) The Council of the corporation of a municipality in which there is not in force a by-law passed under the provisions of section 51 applicable to the work, may by by-law passed at *any general or special* meeting by a vote of three-fourths of all the members of the Council, provide that such part as to the Council may seem proper of the cost of *every* granolithic, stone, cement, asphalt or brick sidewalk, or ☞ of every pavement or curbing constructed ☜ as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation. 3 Edw. VII., c. 19, s. 678. *Amended.*

(2) ☞ Such by-law shall not be repealed except by a vote of three-fourths of all the members of the Council. ☜

Reduction of assessment of corner lots, etc.

24.—(1) In the case of corner lots and triangular or irregularly shaped lots situate at the junction or intersection of streets a reduction shall be made in the special assessment which otherwise would be chargeable thereon, sufficient, having regard to the situation, value and superficial

area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. 3 Edw. VII. c. 19, s. 673 (4). *Amended.*

Of lots unfit for building purposes.

(2) Where a lot is for any reason, wholly or in part, unfit for building purposes, a reduction shall also be made in the special assessment which otherwise would be chargeable thereon, sufficient to adjust its assessment as compared with that of the lots fit for building purposes, on a fair and equitable basis. 3 Edw. VII. c. 19, s. 673 (6). *Amended.*

How reduction to be made

(3) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced. *New.*

Reduction to be borne by corporation.

(4) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. *New.*

Assessment of cost of sidewalk or curb.

25. Where the work undertaken is a sidewalk or curbing only the land abutting on that side of the street upon which the work is constructed shall be specially assessed. *New.* *See* 8 Edw. VII., c. 48, s. 26.

Assessment of non-abutting land for cost of certain sewers.

26.—(1) Where the work is a sewer and in order to afford an outlet for the sewage for any land not abutting directly on the work or for the drainage of it the sewer is of a larger capacity than is required for the purpose of the abutting land, such other land may be specially assessed for a fair and just proportion of the cost of the work. 3 Edw. VII., c. 19, s. 673 (2). *Amended.*

Method of assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed upon it in the manner provided by section 19, and that part of the cost for which such other land is to be specially assessed shall be assessed upon it in the manner provided by sections 28 and 29. *New.*

Apportionment of cost of a bridge or the opening, etc., of a street.

27.—(1) Where the work is the construction of a bridge or the opening, widening, ☞ extending, grading, altering the grade of, diverting or improving ☜ a street, and the Council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the Council may provide for the payment by the corporation of such part of the cost, as to the Council may seem just, and so much of the residue thereof as may

seem just may be specially assessed upon the land abutting directly on the work and so much of such residue as may seem just on such other land as is immediately benefited by the work. 3 Edw. VII., c. 19, ss. 674 (1-2), 675, 675*b*. *Amended.*

Method of assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 19, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 28 and 29. *New.*

Assessment of non-abutting land equally benefited.

28. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. *New.*

Assessment of non-abutting land unequally benefited.

29. Where land not abutting directly upon a work is to be specially assessed and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit and so that a district or section shall embrace all the land which will be benefited in the same proportion, and its proper portion of the cost shall be assigned to each district or section and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. *New.*

PROCEDURE FOR MAKING SPECIAL ASSESSMENT.

Procedure.

30.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the Council shall procure to be made:

(*a*) A report as to the lifetime of the work;

(*b*) A report as to the reductions (if any) which ought to be made under the provisions of section 24 in respect of any lot and the aggregate amount of such reductions;

(*c*) An estimate of the cost of the work;

(*d*) A statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;

(*e*) A report as to the number of instalments by which the special assessment should be made payable; and

(2) ☞ In the case of a work ☜ part of the owners' portion of the cost *of which may* be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports, *and* estimate mentioned in subsection 1, the Council shall procure to be made a further report stating:

(*a*) Whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work;

(*b*) If inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work, and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it. *New. See* 3 Edw. VII., c. 19, s. 664, par. 5.

31. ☞ Before a special assessment is imposed the Council shall procure to be made a special assessment roll, in which shall be entered

(*a*) ☞ Every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed; ☜

(*b*) ☞ Every lot which, but for the provisions of section 48, would be exempt from the special assessment and the number of feet of its frontage; ☜

(*c*) ☞ The rate per foot with which each lot is to be so assessed; ☜

(*d*) ☞ The number of instalments by which the special assessment is to be payable. ☜

How reports, statements, etc., to be made.

32. The Council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in sections *30 and 31* in such manner and by such officer of the corporation or person as the Council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. *New. See* 3 Edw. VII., c. 19, s. 667.

Holding of Court of Revision.

33.—(1) Before a special assessment is imposed a sittings of the Court of Revision, for the hearing of complaints against the proposed special assessment, shall be held.

Time and place of.

(2) Ten days' notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice (Form 3) shall be mailed to the owner of every lot which is to be specially assessed. 3 Edw. VII., c. 19, s. 671 (1) *last part* and (2-3). *Amended.*

Special assessment roll to be kept open for ten days.

34. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the Court of Revision. 3 Edw. VII., c. 19, s. 671 (4). *Amended.*

Statement of cost of work for Court of Revision.

35. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the Clerk, Assessment Commissioner or Treasurer of the municipality shall be delivered to the Chairman of the Court of Revision before the meeting of the Court. *New.*

Powers of Court.

36.—(1) The Court of Revision shall have jurisdiction and power to review the proposed special assessment and to correct *the same* as to all or any of the following matters:

(*a*) Where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work, as to the following matters:

(i) The names of the owners of the lots;

(ii) The frontage or other measurements of the lots;

(iii) The amount of the reduction to be made under the provisions of section 24 in respect of any lot;

(iv) As to the lots which, but for the provisions of section 48, would be exempt from special assessment; and

(v) As to the lifetime of the work.

(vi) ☞ As to the rate per foot with which any lot is to be specially assessed. ☜

(*b*) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in *clause* (*a*), as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear. 3 Edw. VII., c. 19, s. 671 (5). *Part amended.*

(*c*) In all cases as to the *actual* cost of the work. *New.*

(2) ☞ The Court of Revision shall not have jurisdiction or authority to review or to alter the proportions of the cost of the work which the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. ☜

Adjourned sittings of Court in case of omission to assess certain lots.

37.—(1) Where it appears to the Court of Revision that any lot which has not been specially assessed should be specially assessed, before finally determining the matter the Court shall adjourn its sittings to a future day and shall cause notice (Form 3) to be given to the owner of *such* lot of the time and place when the adjourned sittings will be held.

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

(3) If the Court of Revision determines that any such lot ought to be specially assessed, the Court shall have jurisdiction and power to fix and determine the amount of the special assessment thereon. 3 Edw. VII., c. 19, s. 671 (6). *Amended.*

When special assessment roll to be final.

38. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the Court of Revision, and the roll when so corrected shall be certified by the clerk, and when so certified, except in so far as it may be further amended on appeal to the Judge, shall be valid and binding upon all persons concerned and upon the land specially assessed, notwithstanding any defect, error or omission therein or any defect or error in any notice given or proceeding taken or the omission of any proceeding or thing which ought to have been taken or done before the completion of such revision. 3 Edw. VII., c. 19, s. 671 (7). *Amended.*

Appeal to County Judge.

39.—(1) The Council or the owner of a lot specially assessed may appeal to the Judge of the County Court from any decision of the Court of Revision.

Application of 4 Edw. VII., c. 23.

(2) The provisions of *The Assessment Act* as to appeals to the Judge shall apply to an appeal under the provisions of subsection 1.

Powers of judge.

(3) The Judge shall have the like jurisdiction and powers as are conferred on the Court of Revision by section 36, and the provisions of section 37 shall apply where *it appears to* the Judge that any lot not specially assessed ought to be so assessed. 3 Edw. VII., c. 19, s. 671 (5). *Part amended.*

BORROWING POWERS.

Temporary loans.

40.—(1) The Council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it. 3 Edw. VII., c. 19, s. 672 (1) *First part amended.*

Issue of debentures.

(2) The Council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed. 3 Edw. VII., c. 19, s. 672 (1), *last part* and s. 685 (1). *Amended.*

Application of 3 Edw. VII., c. 19.

(3) The provisions of *The Consolidated Municipal Act, 1903*, as to by-laws for creating debts shall apply to by-laws passed under the authority of subsection 2, except that it shall not be necessary

(*a*) That the by-law be submitted to or receive the assent of the electors. 3 Edw. VII., c. 19, s. 679 (2) *first part* and *see* s. 685 (1).

(*b*) That any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it. *New.*

(*c*) To comply with the provisions of paragraphs 2, 3 and 4 of section 338 of *The Consolidated Municipal Act, 1903*. 3 Edw. VII., c. 19, s. 671 (1). *First part amended.*

And except that the debentures, save as provided by section 42, shall be payable within the lifetime of the work. 3 Edw. VII., c. 19, s. 672 (2). *First part amended.*

Special rates for owner's portion to form special fund.

(4) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under the authority of subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose. *New.*

General rate to meet deficiency in special rate.

(5) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of *so much of* the debentures *as* represent the owners' portion of the cost the Council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, ☞ but this shall not relieve the land specially assessed from the special rate thereon. ☜ *New. See* 3 Edw. VII., c. 19, s. 665 (2).

Owner's portion not to be deemed part of debenture debt of corporation.

(6) The amount borrowed under the provisions of subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of section 384 of *The Consolidated Municipal Act, 1903.* 3 Edw. VII., c. 19, s. 685 (2). *First part amended.*

Corporation's portion may be included in yearly estimates.

(7) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken the Council may include the same in the estimates of the year. *New. See* s. 679 (1), *last part.*

Consolidation of by-laws.

41.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 40 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Recitals.

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Rates not to be imposed by consolidating by-law.

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. *New. See* 3 Edw. VII., c. 19, s. 433.

Term of annual instalments of special assessment.

42.—(1) The Council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the Council shall prescribe but not so as to extend beyond the lifetime of the work, unless the work is of the class described in clause (*j*) of section 3, in which case the annual instalments may extend over a period of not more than 40 years. 3 Edw. VII., c. 19, s. 672 (2). *Last part amended.*

Interest.

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added. *New.*

Commutation of special rates.

(3) The Council may also either by a general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. 3 Edw. VII., c. 19, s. 664, *par.* 7 *part.*

Application of 4 Edw. VII., c. 23, ss. 89-92.

43. The provisions of sections 89 to 92 and the other provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assessments and the special rates imposed for the payment of them. *New.*

Where special assessments irregular new assessments may be made.

44. If a debt has been incurred by the corporation for or in respect of a work undertaken and after the incurring of the debt the special assessment for the work is found or adjudged to be invalid or the by-law for borrowing money to defray the cost of the work is quashed or set aside either wholly or in part by reason of any irregularity or illegality in making such assessment or in passing such by-law, the Council may cause a new assessment to be made or may pass a new by-law when and so often as may be necessary to provide the money required to be raised to discharge the debt so incurred. 3 Edw. VII., c. 19, s. 672 (3). *Amended.*

REPAIR OF WORK.

Maintenance and repair of work by corporation.

45. (1) After a work undertaken has been completed it shall during its lifetime be kept in repair by and at the expense of the corporation. 3 Edw. VII., c. 19, s. 666 (1). *Part.*

General duty to repair not affected.

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction, to which it is subject either at common law or under the provisions of *The Consolidated Munici-*

pal Act, 1903, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation. 4 Edw. VII., c. 22, s. 31. *Amended.*

Compelling corporation to repair.

46.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so does not put the work in repair, a Judge of the High Court, or the Judge of the County Court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair. 3 Edw. VII., c. 19, s. 666 (2). *Amended.*

(2) The Judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper.

(3) Where a person under whose supervision the repairs are to be made is appointed, the Judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus.

(5) If the corporation does not comply with the order of the Judge, in addition to any other remedy to which the applicant for the order may be entitled, the Judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the Judge and when so ascertained and determined payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

(6) An appeal shall lie to a Divisional Court of the High Court from any order made under the provisions of this section, and the procedure where the appeal is from an order of a Judge of the High Court shall be the same as on an appeal from an order made in an action in the High Court, and if the appeal is from an order of a Judge of a County Court the same as on an appeal from an appealable order made in an action in the County Court. *New.*

ASSESSMENT OF LAND EXEMPT FROM TAXATION.

Certain lands exempt from taxation liable to be specially assessed.

47. Land on which a church or place of worship is erected, or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, which is exempt from taxation under *The Assessment Act,* except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed. 3 Edw. VII., c. 19, ss. 683, 684 (1). *Part amended.*

Land exempt from taxation for local improvements to be specially assessed.

48. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt, shall not be collected or collectable from the owner thereof but shall be paid by the corporation. 3 Edw. VII., c. 19, s. 684, (*1*) *part and* (*2*) *amended.*

STREET CLEANING, ETC.

Cleaning, watering, lighting streets, etc.

49.—(1) The council may by by-law provide that *thereafter* the annual cost of cleaning, clearing of snow and ice, watering, *oiling,* sweeping, lighting, cutting grass and weeds, and trimming trees and shrubbery on any street, or any one or more of such services shall be specially assessed upon the land abutting directly on such street, according to the frontage thereof, and the foregoing provisions of *this* Act shall not apply to such services.

(2) Instead of naming the particular street or streets the by-law may apply to all the streets in a defined section or sections of the municipality.

(3) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes. 3 Edw. VII., c. 19, ss. 682 (3) and 686. *Amended.*

(4) The by-law shall remain in force from year to year until repealed.

SPECIAL PROVISIONS AS TO TOWNSHIPS, VILLAGES, ETC.

Waterworks and fire engines.

50.—(1) The council of a township or village and the Board of Police Trustees of a police village may undertake as a local improvement

(*a*) The construction of waterworks.

(*b*) The purchase of fire engines and other appliances for the purpose of fire protection;

(*c*) The laying of mains and other appliances to connect with any existing system of water works, whether owned by the corporation or by any other person.

(2) The council, by the by-law for undertaking the work, may provide that the owners' portion of the cost shall be specially assessed against the land in any defined section or sections of the municipality and that the annual cost of managing and maintaining the work shall be assessed against and levied upon such land. 3 Edw. VII., c. 19, s. 687 (1-2); 10 Edw. VII., c. 85, s. 17. *Amended.*

Trustees for managing fire engines and appliances.

(3) In the case of the purchase of fire engines and other appliances for the purpose of fire protection, the council or board of police trustees may, by by-law, provide for

(*a*) The election of a board of three trustees; and the time and manner of holding the election.

(*b*) The term of office of such trustees;

(*c*) Filling vacancies in such board;

(*d*) The election of an auditor;

(*e*) The appointment of a second auditor by such board;

(*f*) The duties of such auditors.

7 Edw. VII., c. 40, s. 35. *Amended.*

Care and control of fire engines, etc.

(4) The board of trustees shall have the care, control and management of such fire engines and appliances. 3 Edw. VII., c. 19, s. 687 (5).

Qualification of voters for election of trustees.

(5) No person shall be entitled to vote at the election of such trustees unless he is the owner of land to be specially assessed under the provisions of subsection 2, and is also qualified to vote at municipal elections. 3 Edw. VII., c. 19, s. 687 (6). *Amended.*

ADOPTION OF LOCAL IMPROVEMENT SYSTEM.

Adoption of local improvement system.

51.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with the provisions of *The Consolidated Municipal Act, 1903*, may provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise.

Repeal of By-law.

(2) The by-law may be repealed, but only by a by-law passed with the like assent. 3 Edw. VII. c. 19, s. 682 (1) and (2). *Part, amended.*

MISCELLANEOUS.

Special rates and covenant against incumbrances.

52. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid shall not, as between a vendor and a purchaser, or as respects a covenant against incumbrances, or for the right to convey, or for quiet possession free from incumbrances, be deemed to be an incumbrance upon the land upon which the special rate is charged or chargeable. 3 Edw. VII., c. 19, s. 681. *Amended.*

When work may be completed.

53. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. *New, see* 3 Edw. VII., c. 19, s. 669 (4).

Municipal Board may prescribe forms.

54. The Ontario Railway and Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto, but the use of such forms shall not be obligatory. *New. See* 3 Edw. VII., c. 19, s. 670.

Repeal.

55.—(1) Sections 385, 433 and 664 to 693 of *The Consolidated Municipal Act, 1903* and all amendments thereto are repealed.

Pending proceedings not affected.

(2) Where proceedings have been begun before the passing of this Act the same may be continued and completed under the provisions of the enactments repealed by subsection (1), but sections 40, 41 and 46 of this Act shall apply to the work when completed. *New.*

FORM 1.

SECTION 11.

Take notice that

1. The Council of the Corporation of the of intends to construct as a local improvement (*describe the work*) on (*or* in) street, between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is $, of which $ is to be paid by the Corporation. The estimated special rate per foot frontage is . The special assessment is to be paid in annual instalments.

3. A petition against the work will not avail to prevent its construction.

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

FORM 2.

SECTION 13.

Take notice that

1. The Council of the Municipal Corporation of the of intends to construct (*describe the work*) on (*or* in) street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is $, of which $ is to be paid by the Corporation, and the estimated special rate per foot frontage is . The special assessment is to be paid in annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the day of 19 .

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

FORM 3.

SECTIONS 33 (2) AND 37.

Take notice that

1. The Council of the Corporation of the of has constructed as a local improvement (*describe the work*) on (*or* in) street between (*describe the points beiween which the work has been constructed*).

2. The cost of the work is $, of which $ is to be paid by the Corporation. The special rate per foot frontage is . The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. A Court of Revision will be held on the day 19 , at o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint which persons interested may desire to make and which is by law cognizable by the Court.

or (*where the Court of Revision proceeds under section 37*).

4. You are served with this notice because the Court of Revision is of opinion that your lot though not specially assessed should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the Court will be held on the day of 19 , at o'clock at the (*insert place of meeting*) when the matter will be determined by the Court.

Dated

Clerk.

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.*)

No. 100.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Amend The Consolidated Municipal Act, 1903, with respect to Local Improvements.

1st Reading, 31st day of January, 1911.
2nd Reading, 16th day of February, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

No. 101. 1911.

BILL

An Act respecting Pawnbrokers.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
LICENSE OF PAWNBROKER, ss. 3-5.
ACTS OF AGENTS, SERVANTS AND APPRENTICES, s. 6.
SIGN AND NOTICE OF RATES TO BE EXHIBITED, s. 7.
BOOKS TO BE KEPT, s. 8.
MEMORANDUM TO PAWNER AND OTHER DETAILS TO BE OBSERVED, ss. 9-12.
PAWNING GOODS OF OTHERS, OR GOODS PARTLY MANUFACTURED, ss. 13, 14.
SEARCH WARRANT, s. 15.
DAILY REPORT TO POLICE, s. 16.
INSPECTION BY POLICE, s. 17.
GOLD OR SILVER NOT TO BE MELTED, s. 18.
HOLDER OF MEMORANDUM ENTITLED TO GOODS, s. 19.
LIABILITY OF PAWNBROKER FOR LOSS BY FIRE, s. 20.
REFUSAL TO DELIVER GOODS ON REDEMPTION, s. 21.
PROCEEDINGS WHEN GOODS IMPAIRED IN VALUE, s. 22.
PROCEEDINGS ON NOTICE NOT TO DELIVER, s. 23.
SALE OF UNREDEEMED GOODS, ss. 24, 25.
RESTRICTIONS ON PAWNBROKER, s. 26.
PAWNBROKER BOUND TO PRODUCE BOOKS, ETC., s. 27.
FEES OF JUSTICES, s. 28.
APPLICATION OF PENALTIES, s. 29.
LIMITATION OF PROSECUTIONS, s. 30.
LIABILITY OF EXECUTORS OF PAWNBROKER, s. 31.
REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Pawnbrokers Act.* Short title. *New.*

Interpretation.

2.—(1) In this Act Interpretation.

(*a*) "Municipality" shall not include county;

(*b*) "Pawnbroker," shall mean a person who exercises the trade of receiving or taking by way of pawn or pledge any goods for the repayment of money lent thereon; "Pawnbroker."

(*c*) "Pawner," shall mean a person delivering an article for pawn to a pawnbroker; "Pawner."

"Pawn ticket."

(*d*) "Pawn ticket," shall mean the note or memorandum referred to in section 9;

"Pledge."

(*e*) "Pledge," shall mean an article pawned with a pawnbroker;

"Shop."

(*f*) "Shop," shall include dwelling-house and warehouse or other place of business or place where business is transacted.

Certain persons to be deemed pawnbrokers.

(2) In order to prevent evasion of the provisions of this Act every person shall be deemed to be a pawnbroker who

35 and 36 V. Imp., c. 93, ss. 5. and 6.

(*a*) Keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon; or

(*b*) Purchases or receives or takes in goods or chattels and pays or advances or lends thereon any sum of money not exceeding $50

with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those goods or chattels may be afterwards redeemed or repurchased on any terms; and every such transaction, payment, advance and loan shall be deemed a pawning, pledging and loan respectively under this Act. *New.*

License.

Pawnbrokers to be licensed.

3.—(1) No person shall exercise the trade of a pawnbroker unless he obtains a license therefor under the hand of the treasurer of the municipality in which he carries on or purposes to carry on such trade, nor unless he obtains a renewal of the same annually, but no license shall be issued or renewed, unless under the authority of a by-law of the council of the municipality. R.S.O. 1897, c. 188, s. 2.

(2) A license or renewal may be refused without any cause assigned. 7 Edw. VII. c. 33, s. 1.

Fee for license.

(3) The sum of $60 shall be paid for every license or renewal thereof to the treasurer, for the use of the municipality, and every pawnbroker shall give to the municipality security to the satisfaction of the treasurer thereof in the sum of $1,000, for the due observance by him of the provisions of this Act. R.S.O. 1897, c. 188, s. 4; 7 Edw. VII. c. 33, s. 1.

(4) Every person exercising such trade without having obtained a license or renewal thereof shall incur a penalty of $50 for every pledge he takes. R.S.O. 1897, c. 188, s. 3. Penalty for neglect to take out license.

4. No person shall, by virtue of one license, keep more than one shop. R.S.O. 1897, c. 188, s. 5. License to cover only one shop.

5. Only one license shall be necessary where two or more persons carry on trade as pawnbrokers in partnership in the same shop. R.S.O. 1897, c. 188, s. 6. Partners.

6. For the purposes of this Act anything done or omitted by the servant, apprentice or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done or omitted, as the case may be, by the pawnbroker; and any thing by this Act authorized to be done by a pawnbroker may be done by his servant, apprentice or agent. *New.* Agents, servants and apprentices of pawnbrokers. 35 & 36 Vict. Imp. c. 93, s. 8.

Duties of Pawnbroker.

7.—(1) Every pawnbroker shall always

(*a*) Keep exhibited in large, legible characters on a sign over the outer door of his shop his name and the word "Pawnbroker"; and Sign to be kept up by pawnbroker.

(*b*) Keep displayed in a conspicuous part of his shop a notice painted or printed in English in large, legible characters so as to be visible to any person pawning or redeeming pledges showing the rate of profit authorized by law to be taken and also the various prices of the pawntickets to be given according to the rates hereinafter mentioned and of the expense of obtaining a copy of the pawnticket where the pawnticket has been lost, mislaid, destroyed or fraudulently obtained from the pawner. Notice of rates allowed.

(2) If a pawnbroker fails in any respect to comply with the requirements of this section he shall incur a penalty not exceeding $40. R.S.O. 1897, c. 188, ss. 7, 8 and 9. *Amended.*

8.—(1) Every pawnbroker who takes a pledge in pawn whereon a sum exceeding $1 is lent, shall, before he lends the money thereon, enter in English in a fair and legible manner in a book to be kept by him for that purpose a description of the pledge, the sum lent thereon, with the day of the month and year and the name and a description of the pawner and the name of the street and number of the house where he Entries to be made by pawnbrokers.

resides, and whether he is a lodger in or the keeper of such house, by using the letter L if a lodger, and the letter H if a housekeeper, and also the name and place of abode of the owner according to the information of the pawner, into all which circumstances the pawnbroker shall inquire of him before any money is lent.

(2) If the sum lent does not exceed $1, a similar entry shall be made in such book within four hours after the goods have been pawned. R.S.O. 1897, c. 188, s. 10; 7 Edw. VII. c. 33, s. 2.

If above $2 lent.

(3) Where more than $2 is lent upon a pledge the entries shall be made in respect thereof in a separate book to be kept for that purpose.

(4) The entries shall be numbered in the books consecutively in the order in which the pledges are pawned in the following manner, viz.: the first pledge received in pawn as No. 1, the second as No. 2, and so on until the end of the month, and in like manner in every succeeding month and upon every pawnticket respecting such pledge shall be written the number of entry of the pledge so entered in the book. R.S.O. 1897, c. 188, s. 11. *Amended.*

Note giving description of goods to be given to the pawner.

9. At the time of taking any pledge, a note or memorandum, written or printed, shall be given to the pawner, containing a description of the pledge and a statement of the sum lent thereon, with the day of the month and year and the name of the pawner and the name of the street, number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letters L or H, and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the pawnbroker and the rates of interest which may lawfully be charged, which note or memorandum the pawner is required to take and unless he takes the same, the pawnbroker shall not take the pledge in pawn. R.S.O. 1897, c. 188, s. 12; 7 Edw. VII. c. 33, s. 3.

Charges for note.

10.—(1) When the sum lent is less than $20 the pawnbroker may take five cents for the pawnticket.

(2) When the sum lent is $20 or more he may take ten cents. 7 Edw. VII. c. 33, s. 4.

The note to be afterwards produced.

11. Except as hereinafter provided the pawnbroker shall not be bound to re-deliver the goods, unless and until the pawnticket is produced and delivered to him. R.S.O. 1897, c. 188, s. 14.

12. A duplicate of the pawnticket shall be affixed to the pledge, and where the pledge is redeemed, the pawnbroker shall write or endorse on the duplicate, the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year after redemption. R.S.O. 1897, c. 188, s. 15.

A duplicate to be affixed to the goods.
After redemption.

Unlawful Pawning.

13.—(1) Any person who knowingly and designedly pawns anything being the property of another person, unless employed or authorized by the owner so to do, shall incur a penalty of not more than $20 nor less than $4, and a further penalty of a sum equal to the full value of the pledge, as ascertained by the convicting justice. R.S.O. 1897, c. 188, s. 16. *Amended.*

Penalty for pawning goods of others.

(2) The penalties shall be applied towards making satisfaction to the person injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting justice. R.S.O. 1897, c. 188, s. 17.

Forfeitures, how applied.

14. A pawnbroker who knowingly takes in pawn any linen or wearing apparel, or unfinished goods, or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, shall be guilty of an offence against this Act and shall incur a penalty not exceeding double the amount of the loan and shall forthwith restore the pledge to the lawful owner in the presence of the convicting justice or as may be directed by him. R.S.O. 1897, c. 188, s. 18. *Amended.*

Consequence of taking goods in pawn from workmen, etc.
Imp. Act 35-36 V., c. 32, s. 35.

15.—(1) If the pawnbroker on request by a constable authorized by a search warrant issued under the authority of *The Ontario Summary Convictions Act* to search the shop refuses to open the shop and permit it to be searched, the constable may break it open and search as he may think fit therein for such goods or articles doing no wilful damage, and any pawnbroker or other person who opposes or hinders the search shall incur a penalty not exceeding $100. R.S.O. 1897, c. 188, s. 19. *Amended.*

Constable may break into shop.
10 Edw. VII., c. 37.
Imp. Act 35-36 V., c. 93, s. 36, *part.*
Penalty.

(2) If in the search any of the goods in respect of which the warrant was issued are found and the property of the owner is made out to the satisfaction of the Justice he shall cause the same to be forthwith restored to the owner. R.S.O. 1897, c. 188, s. 20. *Amended.*

Restoration of goods found on search.
Imp. Act 35-36 V., c. 93, s. 36, *part.*

[*As to search warrants see The Ontario Summary Convictions Act.*]

Reports to Police.

Daily report to police.

16.—(1) Every pawnbroker shall before 10 o'clock in the forenoon of every business day report to the chief constable or to such other person as may be designated by by-law of the council of the municipality on forms to be furnished by the corporation thereof, a description of all pledges received by him in pawn on the next preceding business day together with the numbers of the pawntickets issued therefor and the amounts loaned.

Penalty.

(2) Every person contravening this section shall incur a penalty not exceeding $40. 7 Edw. VII. c. 33, s. 5, *part. Amended.*

Inspection by police.

17. The chief constable or an officer authorized in writing by him or by the police magistrate or any member of the Ontario Provincial or Dominion police force may at all times inspect a pawnbroker's book and shall have access to all books and papers and all pledges and when engaged in such inspection may take with him such other persons as he may deem advisable. 7 Edw. VII. c. 33, s. 5, *part.*

Gold and silver not to be melted.

Gold and silver not to be melted.

18. Gold or silver which has been pawned shall not be melted by a pawnbroker unless specially authorized by the council of the municipality. 7 Edw. VII. c. 33, s. 5, *part. Amended.*

Right of holder of pawnticket.

Holder of note to be considered owner.

19. The holder for the time being of a pawnticket shall as between the pawner and the pawnbroker be presumed to be the person entitled to redeem the pledge, and, subject to the provisions of this Act, the pawnbroker shall accordingly, on payment of the loan and profit, deliver the pledge to the person producing the pawnticket. R.S.O. 1897, c. 188, s. 22. *Amended.*

35-36 Vict. (Imp.), c. 93, s. 25.

Pledge destroyed or damaged by fire.

Liability of pawnbroker in case of fire.

20.—(1) Where a pledge is destroyed or damaged by or in consequence of fire the pawnbroker shall nevertheless be liable on application within the period during which the pledge would have been redeemable to pay the value of the pledge after deducting the amount of the loan and profit, such value to be the amount of the loan and profit and twenty-five per cent. on the amount of the loan.

Imp. Act 35-36 V., c. 93, s. 27.

(2) A pawnbroker shall have an insurable interest in the pledge to the extent of the value so estimated. *New.*

Redemption of Pledges.

If pawner offers to redeem within a year, and pawnbroker refuses to restore goods.

21.—(1) If within one year after a pledge has been pawned exclusive of the day on which it was pawned the pawner, or other person on his behalf, tenders to the pawnbroker the pawnticket and also the principal money borrowed, and the profit according to the lawful rates, and the person who took the pledge neglects or refuses, without reasonable cause, to deliver back the goods so pawned, the pawner may make oath thereof before a Justice of the Peace, who shall summon such person before him, and shall examine on oath the parties and their witnesses touching the premises.

(2) If tender of the pawnticket with the principal sum lent, and lawful profit thereon, is proved to have been made within such time, then on payment by the pawner of the principal money and the lawful profit due thereon, or, if the pawnbroker refuses to accept thereof on tender before the Justice, the Justice shall, by order under his hand, direct the pledge to be forthwith delivered to the pawner, or, if it has been sold, embezzled, lost, mislaid or destroyed, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the Justice, subject to the provisions of section 20, and if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value thereof the Justice shall commit him to the common gaol for a period not exceeding three months or until he delivers up the pledge, or makes satisfaction for the value thereof pursuant to the order. R.S.O. 1897, c. 188, s. 21. *Amended.*

Compensation for depreciation of pledge.

Imp. Act 35-36 V., c. 93, s. 28.

22. If a person entitled and offering to redeem a pledge shows to the satisfaction of a Justice of the Peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the Justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker or shall be paid by the pawnbroker, as the case requires, in such manner as the Justice directs, and in case of default, the pawnbroker shall be liable to the punishment mentioned in section 21. *New.*

Protection of owners and persons not having pawntickets.

23. The provisions of this section shall have effect for the protection of persons entitled to redeem a pledge and pawners not having their pawntickets to produce.

35 and 36 Vict., c. 93, s. 29 (Imp.).

(*a*) Any person claiming to be entitled to redeem a pledge, but not holding the pawnticket, may apply to the pawnbroker for a copy of the pawn-

ticket and a printed form of affidavit which the pawnbroker shall deliver to him;

(*b*) If the claimant proves to the satisfaction of a Justice of the Peace his right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to him by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn endorsed with a certificate of the Justice that such proof has been made, the claimant shall have, as between him and the pawnbroker, all the rights and remedies which he would have had if he had produced his pawnticket;

(*c*) The pawnbroker shall not be bound to deliver the pledge to any person until the expiration of such three days;

(*d*) The pawnbroker shall be indemnified for delivering the pledge or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in any material particular;

(*e*) If the money lent is under $20 the pawnbroker may take for the copy and affidavit five cents, or if it is $20 or more he may take ten cents. *New.* See R.S.O. 1897, c. 188, s. 23.

[*As to lawful rates see R. S. C. Cap. 121, secs. 3, 4.*]

Pledges for $2 or less not redeemed in time forfeited. Imp. Act 35 and 36 V., c. 93, s. 17.

24.—(1) A pledge pawned for $2 or less, if not redeemed within the year of redemption shall, at the end thereof, become and be the pawnbroker's absolute property.

Pledges over $2 redeemable until sold. Imp. Act 35 and 36 V., c. 93, s.18.

(2) A pledge pawned for more than $2 shall continue redeemable until it is disposed of as in this Act provided, although the year of redemption has expired. *New.*

Sale of Pledges.

When to be at public auction.

25.—(1) When the sum lent exceeds $2 the pledge shall be sold at public auction, and not otherwise. R.S.O. 1897, c. 188, s. 25.

Before sale, goods to be exposed to

(2) Before such sale, the articles pawned shall be exposed to public view, and an advertisement thereof containing the

name and place of abode of the pawnbroker, a description of the articles separately, the month the pledge was received in pawn and the number of the pledge, shall be published on two separate days in a public newspaper published in the municipality, and the second advertisement shall be published at least two clear days before the first day of sale. R.S.O. 1897, c. 188, s. 26. *Amended.*

View and sale advertised.

(3) If the articles are not described separately in the advertisement, the pawnbroker shall incur a penalty payable to the owner of the pledge of not less than $8 nor more than $40. R.S.O. 1897, c. 188, s. 27.

Penalty for not properly describing.

(4) A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Act a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased. *New.*

Imp. Act 35 and 36 V., c. 93, s. 19, *part.*

(5) Where a pawnbroker bids at a sale the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale; and the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser. *New.*

Idem. Sched. 5 (7).

(6) The pawnbroker shall enter in a book, to be kept for that purpose, a just account of the sale, showing therein the day of the month on which the articles were pledged, the name of the pawner, the day when, and the money for which each article pledged was sold, and the name and abode of the auctioneer. R.S.O. 1897, c. 188, s. 28.

Account of sales to be kept and booked.

(7) If the pledge is sold for more than was due thereon, the overplus, after deducting the necessary costs and charges of the sale and advertisement, shall be paid to the pawner by whom or upon whose account the pledge was pawned. R.S.O. 1897, c. 188, s. 29.

Disposal of surplus.

(8) The pawner or the person for whom the pledge was pawned or his executor, administrator or assignee, shall have the right to inspect the entry made of the sale, on paying five cents for the inspection. R.S.O. 1897, c. 188, s. 30.

Pawner may inspect entries.

(9) If the pawnbroker refuses to permit the pawner or the person for whom the pledge was pawned or his executor, administrator or assignee upon the production of the probate or letters of administration or the assignment to inspect such entry, or if the pledge was sold for more than the sum entered in such book, or if the pawnbroker did not make such entry, or did not in good faith sell the pledge according to the pro-

Consequence of refusal to permit inspection.

visions of this Act, or refuses to pay the overplus on demand, in addition to any other liability, he shall incur a penalty of not less than $40 or more than $100, and the convicting Justice may award the whole or any part of the penalty to the person aggrieved. R.S.O. 1897, c. 188, s. 31. *Amended.*

Restrictions upon Pawnbrokers.

Restrictions upon pawnbrokers.

26.—(1) A pawnbroker shall not—

(*a*) Purchase any article or receive or take any pledge in pawn from any person who appears to be under the age of fifteen years, or to be intoxicated; or

(*b*) Purchase or take in pawn a pawnticket issued by any other pawnbroker; or

(*c*) Employ or permit any servant or other person under sixteen years of age to take pledges in pawn; or

(*d*) Carry on the business of a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by the Governor-General or the Lieutenant-Governor for a general fast or thanksgiving or on any other day before eight o'clock in the morning or after eight o'clock in the evening, except on Saturday evening and the evenings preceding Good Friday and Christmas Day, on which evenings he may keep his shop open until ten o'clock; or R.S.O. 1897, c. 188, s. 33. *Amended.*

(*e*) Under any pretence purchase except at public auction any pledge while in pawn with him; or R.S.O. 1897, c. 188, s. 32. *Amended.*

Imp. Act 35-36 V., c. 93, s. 32.

(*f*) Suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(*g*) Make any contract or agreement with any person pawning or offering to pawn any article or with the owner thereof for the purchase, sale or disposition thereof, within the time of redemption; or

(*h*) Sell or otherwise dispose of any pledge pawned with him except at such time and in such manner as is authorized by this Act. *New.*

(2) For any contravention of this section a pawnbroker shall incur a penalty of not less than $20 or more than $40. *New.* Penalty.

27. When the Justice is of the opinion that the production of any pawnbook, voucher, pawnticket or other document, which is or ought to be in the hands, custody or power of a pawnbroker is necessary, he shall summon him to attend with it, and the pawnbroker shall be bound to produce it in the state in which it was when the pledge was pawned, and if he neglects or refuses to attend or to produce it in its true and perfect state, he shall, unless he shews good cause to the satisfaction of the Justice, incur a penalty of not less than $20 nor more than $40. R.S.O. 1897, c. 188, s. 37. Pawnbroker bound to produce pawn-books, etc.

28. No fee shall be taken by a Justice of the Peace for any summons or warrant granted by him under this Act, so far as the same relates to a pledge. R.S.O. 1897, c. 188, s. 38. No fee on Justice's summons or warrant.

Penalties.

29. Unless where otherwise provided all penalties recovered under this Act shall belong to the municipality in which the offence was committed and be paid over to the treasurer thereof. R.S.O. 1897, c. 188, s. 39. Penalties to belong to municipality.

30. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act,* except that an information may be laid within twelve months next after the offence was committed. R.S.O. 1897, c. 188, ss. 40 and 41. *Amended.* How penalties are recovered. 10 Edw. VII., c. 37. Limitation of prosecutions.

Personal representative of Pawnbroker.

31. The provisions of this Act shall extend to the executor and administrator of a deceased pawnbroker, but he shall not be answerable for any penalty personally or out of his own estate, unless the same was incurred by reason of his own act or neglect. R.S.O. 1897, c. 188, s. 42. Act to extend to executors, administrators, etc.

Repeal.

32. Chapter 188 of the Revised Statutes, 1897, and Chapter 33 of the Acts passed in the 7th year of the reign of His late Majesty King Edward the Seventh, are repealed. Repeal.

No. 101.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Pawnbrokers.

First Reading.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 102. 1911.

BILL

An Act to amend The Power Commission Act and The Ontario Railway and Municipal Board Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Ontario Railway and Municipal Board Act, 1906,* is amended by inserting between sections 19 and 20 thereof the following sections : 6 Edw. VII., c. 31, amended.

19 *a* The Board may from time to time make orders and regulations as to the construction, operation, protection, and inspection of the works, plant, machinery, appliances and equipment for transmission and distribution of electrical power by municipal corporations, and railway, power, or transmission companies. Powers of Railway and Municipal Board as to power transmission, etc.

19 *b* Any municipal corporation, company or person neglecting or refusing to obey and carry out the order or direction of the Board or the member thereof before whom the complaint was heard, or to comply with any order or regulation under the next preceding subsection, in addition to any other liability, shall forfeit to His Majesty, for the uses of the Province, the sum of $100 for every day during which such refusal or neglect shall continue. Penalty for disregarding order of Board.

2. Subsections 4 and 5 of section 22 of *The Power Commission Act,* as enacted by section 4 of the Act passed in the 10th year of the reign of His late Majesty and chaptered 16, are repealed. 10 Edw. VII., c. 16, s. 4, repealed

No. 102.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Amend the Power Commission Act and The Ontario Railway and Municipal Board Act, 1906.

1st Reading, 25th Jan., 1911.

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 103 1911

BILL

An Act respecting the Law and Transfer of Property.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
CORPOREAL TENEMENTS TO LIE IN GRANT AS WELL AS LIVERY, s. 3.
FEOFFMENTS TO BE BY DEED AND INNOCENT, s. 4.
WORDS OF LIMITATION UNNECESSARY, s. 5.
RECEIPT IN DEED SUFFICIENT, s. 6.
RECEIPT TO BE EVIDENCE FOR SUBSEQUENT PURCHASER, s. 7.
RIGHTS OF PURCHASER AS TO EXECUTION OF DEED, s. 8.
PARTITION, EXCHANGE, ETC., TO BE BY DEED, ss. 9, 12.
CONTINGENT INTERESTS, ETC., MAY BE DISPOSED OF BY DEED, s. 10.
WORDS "GRANT" AND "EXCHANGE," EFFECT OF, s. 11.
GRANTEES, ETC., TO TAKE AS TENANTS IN COMMON AND NOT AS JOINT TENANTS, s. 13.
LAND ACQUIRED BY POSSESSION BY TWO OR MORE PERSONS, s. 14.
CONVEYANCE TO INCLUDE WHOLE ESTATE OF GRANTOR, s. 15.
DEEDS OF BARGAIN AND SALE, BY CORPORATIONS, s. 16.
PROVISION FOR SALES FREE FROM INCUMBRANCES, s. 17.
IMPLIED COVENANTS, s. 18.
COVENANTS TO BIND HEIRS. s. 19.
POWERS, MODE OF EXECUTION, ETC., ss. 20-22.
ILLUSORY APPOINTMENTS, s. 23.
TENANCY BY CURTESY, s. 24.
WASTE, ss. 25-28.
RENT CHARGES, EFFECT OF PARTIAL RELEASE, s. 29.
SCINTILLA JURIS NO LONGER NECESSARY, s. 30.
CONTINGENT REMAINDER NOT TO BE DEFEATED BY FORFEITURE, SURRENDER OR MERGER OF PRECEDING ESTATE, ss. 31-32.
IMPROVEMENTS MADE UNDER MISTAKE OF TITLE, s. 33.
PURCHASES OF REVERSIONS, s. 34.
PURCHASER FOR VALUE WITHOUT NOTICE, s. 35.
CONVEYANCE BY A PERSON TO HIMSELF OR TO HIS WIFE, ETC., s. 36.
RIGHTS OF POSTHUMOUS CHILDREN, s. 37.
PRODUCTION OF CESTUIS QUE VIE AND TENANTS FOR LIFE, ss. 38-44.
ASSIGNMENTS OF CHOSES IN ACTION, s. 45.
DEBENTURES OF CORPORATIONS, s. 46.
AUCTIONS OF ESTATES, ss. 47-50.
FRAUDS IN SALES AND MORTGAGES, s. 51.
EFFECT OF ORDERS OF COURT, s. 52.
REPEAL, s. 53.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Conveyancing and Law of Property Act.* Short title.

2. In this Act, Interpretation.

Conveyance.

(*a*) "Conveyance" shall include assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property; and "convey" shall have a meaning corresponding with that of conveyance;

Convey.

Land.

(*b*) "Land" shall include messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land;

Mortgage.

(*c*) "Mortgage" shall include any charge on property for securing money or money's worth;

Mortgage money.

(*d*) "Mortgage money" shall mean money or money's worth secured by a mortgage;

Mortgagee.

(*e*) "Mortgagee" shall include any person from time to time deriving title under the original mortgage.

Mortgagor.

(*f*) "Mortgagor" shall include any person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;

Property.

Imp. Act 44-45 V., c. 41, s. 2.

(*g*) "Property" shall include real and personal property, and any debt, and any thing in action, and any other right or interest;

Puffer.

(*h*) "Puffer" shall mean a person appointed to bid on the part of the seller;

Purchaser.

Purchase.

Sale.

(*i*) "Purchaser" shall include a lessee, a mortgagee, and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property; and "purchase" shall have a corresponding meaning with that of purchaser; but "sale" shall mean only a sale properly so called. R.S.O. 1897, c. 119, s. 1. *Amended.*

LAND TO LIE IN GRANT AS WELL AS LIVERY.

Corporeal tenements, etc., deemed to lie in grant, etc.

3. All corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1897, c. 119, s. 2.

FEOFFMENT TO BE BY DEED ONLY.

Feoffments unless by deed to be void.

4. A feoffment otherwise than by deed shall be void, and no feoffment shall have any tortious operation. R.S.O. 1897, c. 119, s. 3.

WORDS OF LIMITATION.

Words of limitation unnecessary. Imp. Act, s. 51.

5.—(1) In a conveyance, it shall not be necessary in the limitation of an estate in fee simple to use the word heirs; or in the limitation of an estate in tail to use the words heirs of the body; or in the limitation of an estate in tail male or in tail female, to use the words heirs male of the body, or heirs female of the body.

(2) For the purpose of such limitation it shall be sufficient in a conveyance to use the words in fee simple, in tail, in tail male, or in tail female, according to the limitation intended, or to use any other words sufficiently indicating the limitation intended.

A conveyance without words of limitation passes all the estate, etc. Imp. Act., s. 63.

(3) Where no words of limitation are used, the conveyance shall pass all the estate, right, title, interest, claim and demand, which the conveying parties have, in, to, or on the property conveyed, or expressed or intended so to be, or which they have power to convey in, to, or on the same.

(4) Subsection 3 shall apply only if and as far as a contrary intention does not appear from the conveyance, and shall have effect subject to the terms of the conveyance and to the provisions therein contained.

(5) This section shall apply only to conveyances made after the 1st day of July, 1886. R.S.O. 1897, c. 119, s. 4.

PROVISIONS AS TO CONVEYANCES.

Receipt in deed sufficient. Imp. Act, s 54.

6. A receipt for consideration money or securities in the body of a conveyance shall be a sufficient discharge to the person paying or delivering the same, without any further receipt being indorsed on the conveyance. R.S.O. 1897, c. 119, s. 5. *Amended.*

Receipt in deed or indorsed evidence for subsequent purchaser Imp. Act, s. 55.

7. A receipt for consideration money or other consideration in the body of a conveyance or indorsed thereon shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof. *New.* See R.S.O. 1897, c. 119, s. 5.

Rights of purchaser as to execution of purchase deed. Imp. Act, s. 8.

8. On a sale the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or that of his solicitor, but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. R.S.O. 1897, c. 119, s. 6.

Partition or exchange of land, etc., unless by deed to be void.

9. A partition and an exchange of land and a lease of land required by law to be in writing, an assignment of a chattel interest in land, and a surrender in writing of land not being an interest which might by law have been created without writing, shall be void at law, unless made by deed. R.S.O. 1897, c. 119, s. 7.

Contingent interests, etc., in land may be disposed of by deed.

10. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed; but no such disposition shall by force only of this Act defeat or enlarge an estate tail. R.S.O. 1897, c. 119, s. 8.

Exchanges or partitions not to imply any condition or "give" or "grant" any covenant. Imp. Act 8 and 9 V., c. 106, s. 4, *part*.

11. An exchange or a partition of any tenements or hereditaments shall not imply any condition in law, and the word "give" or the word "grant" in a conveyance shall not imply any covenant in law, except so far as the word "give" or the word "grant" may by force of any Act in force in Ontario imply a covenant. *New.*

Preceding three sections not to extend to deeds, etc., executed before 1st January, 1850.

12. The next preceding three sections shall not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. R.S.O. 1897, c. 119, s. 10.

Grantees, devises, etc., to take as tenants in common unless it appears they are to take as joint tenants.

13.—(1) Where by any letters patent, assurance or will, made and executed after the first day of July, 1834, land has been or is granted, conveyed or devised to two or more persons other than executors or trustees in fee simple, or for any less estate, it shall be considered that such persons took or take as tenants in common, and not as joint tenants, unless an intention sufficiently appears on the face of such letters patent, assurance or will, that they are to take as joint tenants. R.S.O. 1897, c. 119, s. 11.

(2) This section shall apply notwithstanding that one of such persons is the wife of another of them. *New.*

Land acquired by possession by two or more persons to be held in common tenancy.

14. Where hereafter two or more persons acquire land by length of possession they shall be considered to hold as tenants in common and not as joint tenants. *New.*

Conveyance to include all houses, etc., and the reversion, and all the estate, etc.

15.—(1) Every conveyance of land, unless an exception is specially made therein, shall include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, ease-

ments, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to such land belonging or in anywise appertaining, or with the same demised, held, used, occupied and enjoyed or taken or known as part or parcel thereof; and if the same purports to convey an estate in fee simple, also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, of the grantor, into, out of, or upon the same land, and every part and parcel thereof, with their and every of their appurtenances.

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section shall apply only to conveyances made after the 1st day of July, 1886. R.S.O. 1897, c. 119, s. 12.

Corporations aggregate may convey by bargain and sale.

16. Any corporation capable of taking and conveying land in Ontario, shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale, in like manner as any person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land which may be applicable to such corporation. R.S.O. 1897, c. 119, s. 13.

PROVIDING FOR INCUMBRANCES ON SALES.

Provision for sales free from incumbrances. Imp. Act, s. 5.

17.—(1) Where land subject to an incumbrance, whether immediately payable or not, is sold by any Court or out of Court, the High Court or the Court in which the sale takes place may, on the application of any party to the sale, direct or allow payment into Court—in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land—of such amount as, when invested in securities approved by the Court, the Court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge; and—in any other case of capital money charged on the land—of an amount sufficient to meet the incumbrance and any interest due thereon; but in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses, and interest, and any other contingency except depreciation of investments, not exceeding one-tenth of the original amount to be paid in, unless the Court for special reasons thinks fit to require a larger additional amount.

(2) The Court may, thereupon, either after or without notice to the incumbrancer, declare the land to be freed from the incumbrance, may make any order for conveyance, or vesting order, proper for giving effect to the sale, and may give directions for the retention and investment of the money in Court.

(3) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof. R.S.O. 1897, c. 119, s. 15. *Amended.*

(4) Payment of money into Court shall effectually exonerate therefrom the person making the payment.

Regulations respecting payments into court and applications.

Imp. Act, s. 69.

(5) The application shall be made in chambers, and on notice.

(6) On an application by a purchaser, notice shall be served in the first instance on the vendor.

(7) On an application by a vendor, notice shall be served in the first instance on the purchaser.

(8) On any application, notice shall be served on such persons as the Court thinks fit.

(9) The Court may make such order as it deems just respecting the costs, charges or expenses of any of the parties to the application. R.S.O. 1897, c. 119, s. 16.

IMPLIED COVENANTS.

Covenants to be implied. Imp. Act, 44-45 V., c. 41, s. 7.

18.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On conveyance for value by beneficial owner.

(*a*) In a conveyance for valuable consideration, other than a mortgage, the following covenants by the

person who conveys, and is expressed to convey, as beneficial owner, namely, covenants for, Imp. Act, s. 7.

(I) Right to convey;
(II) Quiet enjoyment;
(III) Freedom from incumbrances; and
(IV) Further assurance;

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Conveyances Act*, and therein numbered 2, 3, 4 and 5, subject to the provisions of that Act; 10 Edw. VII., c. 53.

(*b*) In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner: On conveyance of leaseholds for value, by beneficial owner.

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed, and performed, have been paid, observed and performed, up to the time of conveyance; Validity of lease.

(*c*) In a conveyance, the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a lunatic, or under an order of the Court, which covenant shall be deemed to extend to every such person's own acts only, namely; On conveyance by trustee, etc. Imp. Act, s. 7.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to, any deed, act, matter or thing, whereby, or by means whereof the subject-matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or Against incumbrances.

incumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

On settlement for further assurance, limited.

(*d*) In a conveyance by way of settlement, the following covenant by a person who conveys and is expressed to convey as settlor, namely;

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required.

On conveyance by direction of beneficial owner.

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or not he conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and covenants on his part shall be implied accordingly.

Enforcing covenants.

(3) The benefit of a covenant so implied shall be annexed and incident to and shall go with the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Variation of covenants.

(4) A covenant so implied may be varied or extended and as so varied or extended shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied. R.S.O. 1897, c. 119, s. 17.

19.—(1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, his heirs and assigns and shall have effect as if heirs and assigns were expressed. Covenants to bind heirs, etc. Imp. Act. 44-45 V., c. 41, s. 58.

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, his executors, administrators and assigns and shall have effect as if executors, administrators and assigns were expressed. *New.*

POWERS.

20.—(1) A deed executed in the presence of, and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, shall be executed or attested with some additional or other form of execution or attestation or solemnity. Mode of executing powers. Imp. Act, 22-23 V., c. 35, s. 12.

(2) This section shall not operate to defeat any direction in the deed or instrument creating the power that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument.

(3) Nothing in this section shall prevent the donee of a power from executing it conformably to the power. R.S.O. 1897, c. 119, s. 18.

21.—(1) A person to whom a power, whether coupled with an interest or not, is given may by deed release or contract not to exercise the power. R.S.O. 1897, c. 119, s. 19. Person to whom a power is given may release or contract not to exercise same. Imp. Act 44 and 45 V., c. 41, s. 52.

22. Where, under a power of sale, a sale in good faith is made of an estate, with the timber thereon, or with any articles attached thereto, and the tenant for life, or any other party to the transaction, is by mistake allowed to receive for his own benefit a part of the purchase money or value of the timber or article, the High Court, upon an action brought, or upon application made in a summary way, may declare, that upon payment by the purchaser, or the claimant under him, of the full value of the timber or article at the time of the sale, with such interest thereon as the Court directs, and the settlement of the principal moneys Sale under power not to be avoided by reason of mistaken payment to tenant for life. Imp. Act 22-23 V., c. 35, s. 13.

and interest under the direction of the Court, upon such persons as in the opinion of the Court are entitled thereto, the sale ought to be established; and upon payment and settlement being made accordingly, the Court may declare the sale valid, and thereupon the legal estate shall vest and go in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R.S.O. 1897, c. 119, s. 20.

ILLUSORY APPOINTMENTS.

No appointment in exercise of a power shall be impeached in equity as illusory by reason of giving only a nominal share to any object of the power. Imp. Act, 11 Geo. 4, & 1 Wm. 4, c. 46, ss. 1, 2 and 3, 37 & 38 V., c. 37, s. 1, and Judicature Act, s. 57 (4).

23.—(1) No appointment made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid, or impeached, on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power or upon the ground that any object of such power has been altogether excluded; but every such appointment shall be valid and effectual, notwithstanding that anyone, or more, of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof or nominal share of the property subject to such power.

Not to affect any deed which declares the amount of the shares to be appointed.

Nor to give any other force to any appointment than the same would have had if a substantial share had been appointed or left to devolve as unappointed.

(2) Nothing in this section shall prejudice or affect any provision, in any deed, will, or other instrument, creating any such power, which declares the amount of the share or shares from which no object of the power shall be excluded or that some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed to devolve upon, any object of such power. R.S.O. 1897, c. 330, ss. 31, 32 and 33; and c. 51, s. 57 (4).

TENANCY BY THE CURTESY.

Tenancy by the curtesy.

Imp. Rev. Stat. c. 163.

24. Where a husband has issue born alive and capable of inheriting any land to which his wife is entitled in fee simple, or fee tail, if the husband survive his wife, whether such issue live or not, the husband shall (subject to the provisions of *The Married Women's Property Act*) be entitled to an estate for his natural life in such land as may not have been disposed of by her deed or will; but if he has no such issue by his wife he shall not be entitled to any further or other estate or interest in such land in the event of surviving his wife, except such as may be devised to him

by her will, or such as he may become entitled to under *The Devolution of Estates Act*. R.S.O. 1897, c. 330, s. 5. 10 Edw. VII., c. 56.

WASTE.

25. A tenant by the curtesy, a dowress, a tenant for life, or for years, and the guardian of the estate of an infant, shall be impeachable for waste, and liable in damages to the person injured. R.S.O. 1897, c. 330, s. 21. Waste by tenants by curtesy, dowress, etc. 6 Edw. I., (St. Gloucester), c. 5.

(*For other remedies see The Judicature Act, s. 58 (9).*)

26. An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate. R.S.O. 1897, c. 51, s. 58 (2). Waste by tenant for life without impeachment of waste.

27. Tenants in common, and joint tenants, shall be liable to their co-tenants for waste, or, in the event of a partition, the part wasted may be assigned to the tenant committing such waste, at the value thereof to be estimated as if no such waste has been committed. R.S.O. 1897, c. 330, s. 22. Waste between joint tenants and tenants in common. 13 Edw. I. (St. of Westminster, Sec.) c. 22.

28. Lessees making or suffering waste on the demised premises without license of the lessors, shall be liable for the full damage so occasioned. R.S.O. 1897, c. 330, s. 23. Waste by lessees. 52 Hen. 3 (St. of Marlbridge) c. 23.

29. The release from a rent-charge of part of the land charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of it out of the land released, without prejudice to the rights of all persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1897, c. 119, s. 27. Release of part of land subject to rent-charge not to be an extinguishment of the charge on the rest, etc. Imp. Act, 22-23 V. c. 35, s. 10.

FUTURE AND CONTINGENT USES.

30. Where by any deed, will or other instrument, any land is limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses; and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris*, shall not be necessary for the support of, or to give effect to, future or contingent or executory uses; Limitation to uses, shall take effect as they arise without continued seisin or *scintilla juris* in the persons originally seised. Imp. Act 23-24 V. c. 38, s. 7.

nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended, or to remain or to subsist in him or elsewhere. R.S.O. 1897, c. 119, s. 28.

CONTINGENT REMAINDERS.

Certain contingent remainders not to be defeated by forfeiture, surrender or merger of preceding estate.

31. Every contingent remainder shall be capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger, of any preceding estate of freehold. R.S.O. 1897, c. 119, s. 29. *Amended.*

No merger of estate by operation of law.

44 V. c. 5.

32. There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to *The Ontario Judicature Act, 1881,* would not have been deemed merged or extinguished in equity. R.S.O. 1897, c. 51, s. 58 (3).

IMPROVEMENTS UNDER MISTAKE OF TITLE.

Persons improving lands to have a lien on lands.

33. Where a person makes lasting improvements on land under the belief that the land is his own, he or his assigns shall be entitled to a lien upon the same to the extent of the amount by which the value of the land is enhanced by such improvements; or shall be entitled or may be required, to retain the land if the Court is of opinion or requires that this should be done, according as may, under all circumstances of the case be most just, making compensation for the land, if retained, as the Court may direct. R.S.O. 1897, c. 119, s. 30.

PURCHASES OF REVERSIONS.

Purchases of reversions not affected by undervalue.

34. No purchase made in good faith, and without fraud, of any reversionary interest in property, shall be opened or set aside on the ground of undervalue. R.S.O. 1897, c. 119, s. 35.

PURCHASER FOR VALUE WITHOUT NOTICE.

Proof of payment of purchase money unnecessary.

35. It shall not be necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money, or any part thereof. R.S.O. 1897, c. 119, s. 36.

ASSIGNMENT TO ASSIGNOR AND ANOTHER OR TO ASSIGNOR'S WIFE.

Assignment of property to wife or self and others.

36. Any property may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person, and may in

like manner be conveyed or assigned by a husband to his wife, or by a wife to her husband alone or jointly with another person. R.S.O. 1897, c. 119, s. 37. Imp. Act, s. 50.

RIGHTS OF POSTHUMOUS CHILDREN.

37. Where any estate is, by any marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of any person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten, or to be begotten, that shall be born after the decease of his or her father, shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter, in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such after born son, or daughter, until he or she come *in esse*, or is born, to take the same. R.S.O. 1897, c. 330, s. 10. Posthumous children to take estate as if born in their father's lifetime. Imp. Act, 10 W. 3, c. 22.

PRODUCTION OF CESTUIS QUE VIE, AND TENANTS FOR LIFE.

38. If any person, for whose life an estate is granted, remains out of Ontario, or absents himself therein for the space of seven years together, so that it cannot be ascertained whether he is alive or dead, and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner, his heirs, or assigns, judgment shall be given accordingly. R.S.O. 1897, c. 330, s. 14. *Amended.* *Cestuis que vie* remaining out of Province for seven years together, and no proof of their lives, to be accounted dead. 18 & 19 Car. 2, c. 11, s. 1.

39. If any person is evicted out of any land by virtue of section 38, and if afterwards the person, upon whose life such estate depends, returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living, or to have been living at the time of the eviction, the tenant or lessee who was ousted, his executors, administrators or assigns, may re-enter, repossess, have, hold, and enjoy, the land in his former estate, for and during the life, or so long a term as the person, upon whose life the estate depends shall be living; and also shall, upon action to be brought by him against the lessor, reversioner, or tenant in possession, or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits If the supposed dead man proved to be alive then the title is revested. 18 & 19 Car. 2, c. 11, s. 4. Action for *mesne* profits with interest.

thereof, with lawful interest for, and from, the time that he was ousted, and kept or held out of the land by such lessor, reversioner, tenant in possession, or other person, whether the person, upon whose life such estate depends is living or dead at the time of bringing of the action. R.S.O. 1897, c. 330, s. 15. *Amended.*

Reversioners, etc., expectant upon determination of life estate, upon affidavit of belief of death of infant or other tenant for life as herein mentioned, and such death is concealed by guardian, etc., may yearly move for and obtain an order of H.C.J. for the production of such tenant for life;

40.—(1) The High Court may, on the application of any person who has any claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of any person within age, married woman, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his title, and that he has cause to believe that such minor, married woman, or other person, is dead, and that his, or her, death is concealed by the guardian, trustee, husband, or any other person, which application may be made once a year if the person aggrieved shall think fit, order that such guardian, trustee, husband, or other person concealing, or suspected to conceal, such person, do, at such time and place as the Court shall direct, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order such minor, married woman, or other person.

(2) If such guardian, trustee, husband, or such other person refuses or neglects to produce or show such minor, married woman, or such other person, on whose life any such estate depends, according to the directions of the order, the Court is hereby authorized and required to order such guardian, trustee, husband, or other person, to produce such minor, married woman, or other person concealed, in the Court, or otherwise before commissioners to be appointed by the Court, at such time and place as the Court shall direct, two of which commissioners shall be nominated by the party prosecuting such order, at his costs and charges.

and upon refusal, etc., to produce such tenant for life, he to be taken to be dead.

6 Anne, c. 72 (or c. 18 in Ruffhead's Ed.), s. 1.

(3) If such guardian, trustee, husband, or other person, refuses or neglects to produce such minor, married woman, or other person so concealed, in Court, or before such commissioners, whereof return shall be made by such commissioners, and filed in the Central office, in either, or any, of such cases, such minor, married woman, or other person, shall be taken to be dead, and it shall be lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor, married woman or other person, to enter upon such land as if such minor, married woman, or other person were actually dead. R.S.O. 1897, c. 330, s. 6. *Amended.*

41. If it appears to the Court by affidavit that such minor, married woman, or other person, is, or lately was, at some certain place out of Ontario in the affidavit to be mentioned, the party prosecuting such order, at his costs and charges, may send over one or both of the persons appointed by the order to view such minor, married woman, or other person, and if such guardian, trustee, husband, or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor, married woman, or other person, then such person or persons shall make a true return of such refusal or neglect to the Court, which shall be filed in the Central office, and thereupon such minor, married woman, or other person, shall be taken to be dead, and any person claiming any right, title, or interest, in remainder, reversion, or otherwise, after the death of such minor, married woman, or other person, may enter upon such land as if such minor, married woman, or other person were actually dead. R.S.O. 1897, c. 330, s. 17. *Amended.*

If such infant, etc., tenant for life appear to be in some place out of Ontario, party prosecuting such order may send over to view such infant, and if guardian, etc., will not produce such tenant for life, then he or she to be taken as dead.

6 Anne, c. 72 (or c. 18 in Ruffhead's Ed.), s. 2.

42. If it shall afterwards appear upon proof in any action to be brought that such minor, married woman, or other person was alive at the time such order was made, such minor, married woman, guardian, or trustee, or other person, having any estate or interest determinable upon such life, may re-enter upon the land, and may maintain an action against those who, since the order, received the profits thereof, or their executors, or administrators, and recover full damages for the profits of the same received from the time that such minor, married woman, or other person, having any estate or interest determinable upon such life, was ousted of the possession of such land. R.S.O. 1897, c. 330, s. 18. *Amended.*

If it appear afterwards in any action that such tenant for life was alive at the time of the order made, then he or she may re-enter, and have action for rent, etc.

6 Anne, c. 72 (or c. 18 in Ruffhead's Ed.), s. 3.

43. If any such guardian, trustee, husband, or other person, holding or having any estate or interest determinable upon the life of any other person, shall show, to the satisfaction of the Court, that he has used his utmost endeavour to procure such minor, married woman, or other person, on whose life such estate or interest depends, to appear in Court, or elsewhere according to the order, and that he cannot procure or compel such appearance, and that such minor, married woman, or other person, is living, or was living at the time such return was made and filed, the Court may order that such person may continue in the possession of such estate, and receive the rents and profits thereof, during the infancy of such minor, and the life of any other person, on whose life such estate or interest next depends, as fully as he might have done if this, and the three next preceding sections had not been passed. R.S.O. 1897, c. 330, s. 19. *Amended.*

Proviso for guardians, etc., who shall make it appear that due endeavour has been used to procure the appearance of such infant and tenant for life.

6 Anne, c. 72 (or c. 18 in Ruffhead's Ed.), s. 4.

Guardians, trustees, etc., holding over without consent of remainderman, etc., deemed trespassers.

44. Every person having an estate or interest in land, determinable upon any life, and the guardian or trustee for a minor having such an estate, who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land, upon and after the determination of such particular estate or interest, may recover in damages against every such person so holding over, the full value of the profits received during such wrongful possession. R.S.O. 1897, c. 330, s. 20.

6 Anne, c. 72 (or c. 18 in Ruffhead's Ed.) s. 5.

Damages.

ASSIGNMENTS OF CHOSES IN ACTION.

Assignment of debt and choses in action.

45.—(1) Any absolute assignment, made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing shall have been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be effectual in law, subject to all equities which would have been entitled to priority over the right of the assignee if this section had been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor. R.S.O. 1897, c. 51, s. 58 (5).

Where several claimants under assignment.

(2) In case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the High Court under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1897, c. 51, s. 58 (6).

DEBENTURES OF CORPORATIONS TRANSFERABLE.

Bonds and debentures of corporations.

46.—(1) The bonds or debentures of a corporation made payable to bearer, or to any person named therein or bearer, may be transferred by delivery, and if payable to any person or order, after general endorsation thereof by such person, shall be transferable by delivery.

(2) Any such transfer shall vest the property in the bond or debenture in the holder thereof and enable him to maintain an action thereon in his own name. R.S.O. 1897, c. 119, s. 38. *Amended.*

Holder may maintain action.

AUCTIONS OF ESTATES.

47. Unless in the particulars or conditions of sale by auction of any land it is stated that such land will be sold subject to a reserved price, or to a right of the seller to bid, the sale shall be deemed to be without reserve. R.S.O. 1897, c. 119, s. 22.

When sale shall be deemed without reserve.

48. Upon any sale of land by auction, without reserve, it shall not be lawful for a seller or for a puffer to bid at such sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R.S.O. 1897, c. 119, s. 20.

Seller not to bid at unreserved sales.

49. Upon any sale of land by auction, subject to a right for the seller to bid, it shall be lawful for the seller or any one puffer to bid at such auction in such manner as the seller may think proper. R.S.O. 1897, c. 119, s. 24.

At reserved sales the seller may bid.

50. Nothing in the next preceding three sections shall authorize any seller to become the purchaser at the sale. R.S.O. 1897, c. 119, s. 25.

Seller not authorized to purchase.

FRAUDS IN SALES OR MORTGAGES OF PROPERTY.

51. If any seller or mortgagor of property or his solicitor or agent conceals any settlement, deed, will or other instrument material to the title, or any incumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent to defraud such seller, mortgagor, solicitor or agent, irrespective of any criminal liability he may thereby incur, shall be liable at the suit of the purchaser or mortgagee, or those claiming under him, for any loss sustained by them or either or any of them, in consequence of the settlement, deed, will or other instrument or incumbrance so concealed, or of any claim made by any person under such pedigree, whose right was so concealed by the falsification of such pedigree; and in the case of land in estimating such damages where the property is recovered from such purchaser or mortgagee, or from those claiming under him, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R.S.O. 1897, c. 119, s. 39.

Liability of vendor or mortgagor for fraudulent concealment of deeds, etc., or falsifying pedigree. Imp. Acts 22-23 V. c. 35, s. 24, and 23-24 V. c. 38, s. 8.

EFFECT OF ORDERS OF COURT.

Order of Court not invalidated as against purchaser for want of jurisdiction, etc.

52. An order of the Court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice or service. R.S.O. 1897, c. 51, s. 58 (11).

Repeal.

Repeal.

53. Chapter 119 of the Revised Statutes, 1897, except sections 14 and 34, and clause 4 of section 57, and clauses 2, 3, 5, 6 and 11 of section 58 of chapter 51, and sections 5, 6, 10, 14, 15, 17 to 23 and 31 to 33 of chapter 330 of the said Revised Statutes are repealed.

No. 103.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the
Law and Transfer of Property.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 104. 1911.

BILL

An Act respecting the Chartered Stenographic Reporters' Association of Ontario.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
CHARTERED STENOGRAPHIC REPORTERS' ASSOCIATION, s. 3.
POWER TO ACQUIRE LAND, s. 4.
MEMBERSHIP, s. 5.
EDUCATIONAL POWERS, s. 6.
BY-LAWS, s. 7.
COUNCIL, ELECTION OF, s. 8.
OFFICERS TO BE APPOINTED, s. 9.
ADMITTING MEMBER BY COUNCIL, s. 10.
ANNUAL MEETINGS, s. 11.
REGISTER, s. 12.
DIPLOMAS AND CERTIFICATES, s. 13.
ENTRANCE AND ANNUAL FEES, s. 14.
UNQUALIFIED PERSONS USING TITLE, s. 15.
SUSPENSION AND EXPULSION OF MEMBERS, s. 16.
RECOVERING FEES AND PENALTIES, s. 17.
MEMBER'S PERSONAL REPRESENTATIVE TO HAVE NO INTEREST IN FUNDS, s. 18.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Stenographic Reporters' Act*. R.S.O. 1897, c. 183, s. 1.

Interpretation.

2. In this Act,

"The Association" shall mean The Chartered Stenographic Reporters' Association of Ontario. *New.*

3. The Association is hereby continued. R.S.O. 1897, c. 183, s. 2, *part.*

Power to hold land.

4. The Association may purchase, take and possess for the purposes of the Association but for no other purpose, and after acquiring the same may sell, mortgage, lease or dispose of any real estate the annual value of which shall not at any time exceed $5,000. R.S.O. 1897, c. 183, s. 2, *part.*

Membership.

5. Subject to the provisions of this Act and to the by-laws of the Association, the Association shall consist of its present members and all persons who shall cause their names

to be registered under the provisions of this Act. R.S.O. 1897, c. 183, s. 3.

Educational powers.

6.—(1) The Association shall have power to promote and increase by all lawful ways and means the knowledge, skill and proficiency of its members in all things relating to the business or calling of a stenographer, and to that end to establish classes, lectures and examinations and prescribe such tests of competence, fitness and moral character as may be thought expedient to qualify for admission to membership, to grant diplomas and certificates of efficiency, and to authorize its members to use the distinguishing title "Chartered Stenographic Reporter" or the letters C.S.R.

Examination of students and affiliation.

(2) The Association may also prescribe for students of stenography, who desire to become members of the Association, such examinations and may grant to them such certificates of competency as it sees fit; and may organize the students into a society in affiliation with itself for study and mutual improvement. R.S.O. 1897, c. 183, s. 4.

Power to make by-laws.

7.—(1) The Association, in general or special meeting assembled after due notice, may pass by-laws for carrying out its objects.

(2) Unless otherwise provided by the by-laws, no new by-law shall be passed, nor shall any by-law be altered or repealed except by a two-thirds vote of the members present at a meeting of the Association, and only after at least two weeks' notice in writing of the proposed alteration or repeal shall have been given or mailed to each member. R.S.O. 1897, c. 183, s. 5. *Amended.*

Members of Council.

8.—(1) The affairs, business and concerns of the Association shall be managed by a Council composed of nine persons who shall be British subjects, who have resided and practised the profession of stenography within Ontario for at least five years.

Election by voting papers.

(2) The members of the Council shall be elected by voting papers in the manner provided for by the by-laws at the annual meeting, or at a special meeting called for that purpose, and the members obtaining the greatest number of votes shall be declared elected.

Only qualified members eligible for Council.

(3) No person shall be eligible for election to the Council or qualified to fill any vacancy therein or to vote for any member thereof, unless duly qualified under the provisions of this Act and the by-laws of the Association. R.S.O. 1897, c. 183, s. 7, *part.*

(4) The members of the Council in office at the time of the passing of this Act shall respectively hold office for the remainder of the term for which they were elected, and until their successors are chosen. *New.*

(5) Subsequently elected members shall hold office for three years from the time of their election and until their successors are chosen. *New.*

(6) A member chosen to fill a vacancy shall hold office for the residue of the term for which his predecessor was elected or appointed. *New.*

Quorum.

(7) Five members of the Council shall form a quorum. R.S.O. 1897, c. 183, s. 7, *amended.*

Officers of the Association.

9.—(1) At the close of the annual meeting the Council shall meet and choose from among themselves a President, a Vice-President, a Secretary, a Treasurer and such other officers as may be provided for by the by-laws.

Filling vacancies.

(2) In the event of the office of President becoming vacant the Vice-President shall become President for the remainder of the term.

(3) All other vacancies among the officers or the members of the Council shall be filled by the Council.

(4) The Council may remove any officer for misconduct or other sufficient cause, and may appoint his successor for the remainder of the term. R.S.O. 1897, c. 183, s. 6.

Admission by vote of Council.

10.—(1) The Council may, by a vote of two-thirds of all the members thereof, admit to membership in the Association without examination a stenographic reporter who by reason of his professional reputation and standing is deemed qualified for membership. R.S.O. 1897, c. 183, s. 9.

(2) The Council may also by a two-thirds vote of all its members, admit as honorary members of the Association, such persons resident in Ontario or elsewhere as they may deem deserving. *New.*

(3) An honorary member shall not be entitled to vote at an election or at a meeting of the Association or to be elected a member of the Council. *New.*

Time and place of annual meeting.

11. The annual meeting of the members of the Association for the election of the Council, and for such other business as may be brought before such meeting, shall be

held at such time and place and under such regulations and after such notices as the by-laws of the Association shall prescribe. R.S.O. 1897, c. 183, s. 10.

Register of members to be kept.

12.—(1) The Council shall cause to be kept by the Secretary a register, in which shall be entered in alphabetical order the names of all members in good standing; and those members only whose names are entered in the register shall be entitled to the privileges of membership; and the register shall at all times be open to inspection by any person free of charge.

Register or copy to be *prima facie* evidence of membership.

(2) The register, or a copy of it certified by the Secretary, shall be *prima facie* evidence that the persons therein named are members of the Association in good standing. R.S.O. 1897, c. 183, s. 11.

Limitation of term of diplomas and certificate.

13. The Association may limit the term of all diplomas and certificates granted by it to one year from the date of granting the same, and may withhold the granting or renewal of the same, together with all the other privileges of membership, from any person who neglects to pay the prescribed fees when they are due and so long as they remain unpaid. R.S.O. 1897, c. 183, s. 12.

Entrance and annual fees.

14.—(1) The Council may fix an entrance and an annual fee to be paid by all members to the Association, and may vary the amount from time to time; and no member shall be personally liable for any debt of the Association beyond the amount of his unpaid fees.

Examination fees.

(2) The Council may also prescribe examination fees to be paid by applicants for examination. R.S.O. 1897, c. 183, s. 13.

Penalty for using the title C.S.R. when not registered.

15.—(1) No person shall be entitled to take or use the title of "Chartered Stenographic Reporter," or the letters "C.S.R.," either alone or in combination with any other words, or any name, title or description implying that he is a member of the Association, unless he is a member in good standing.

(2) Every person who uses such title or such letters contrary to the provisions of this section shall incur a penalty not exceeding $25 for the first offence and not exceeding $100 for each subsequent offence recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 183, s. 14.

10 Edw. VII, c. 37.

Suspension and expulsion of members.

16. The Association may by by-law provide for the suspension or expulsion, after due enquiry, of any member for

misconduct or violation of the by-laws of the Association. R.S.O. 1897, c. 183, s. 15.

17.—(1) All fees payable under this Act may be recovered as debts due to the Association. Recovery of fees and penalties due the Association.

(2) Penalties recovered under the authority of this Act shall be paid immediately on the recovery thereof by the convicting Justice to the Treasurer of the Association. Penalties when recovered to be paid to the treasurer.

(3) The Council may allot such portion of a penalty as may be deemed expedient to the prosecutor or complainant. R.S.O. 1897, c. 183, s. 16.

18. If a person ceases to be a member of the Association he shall not, nor shall his representatives, have any interest in or claim against the funds or property of the Association. R.S.O. 1897, c. 183, s. 18. Ex-members to have no claims against the funds.

19. Chapter 183 of the Revised Statutes, 1897, is repealed. Repeal.

No. 104.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Chartered Stenographic Reporters' Association of Ontario.

First Reading.

Mr. PYNE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 105. 1911.

BILL

An Act respecting Dentistry.

SHORT TITLE, s. 1.
ROYAL COLLEGE OF DENTAL SURGEONS CONTINUED, s. 2.
POWER TO HOLD REAL ESTATE, s. 3.
BOARD OF DIRECTORS, ss. 4-9.
PAYMENT OF MEMBERS, s. 10.
APPLICATION OF FUNDS, s. 11.
POWERS OF BOARD—
- Establishment of School of Dentistry, s. 12.
- Preliminary examination of students, s. 13.
- Curriculum of studies and regulations respecting students, s. 14.
- Power to arrange for education of students, s. 15.
- Conferring degree of M.D.S., s. 16.
- By-laws, s. 17.
- Certificates of License, who entitled to, s. 18.
- Annual meetings of the Board for holding examinations, etc., ss. 19-20.
- Granting Certificates of License, etc., ss. 21-22.
- Examination Fees, s. 23.
- Annual Fees, s. 24.

OFFENCES AND PENALTIES—
- Practising without certificate, s. 25.
- Procedure on prosecutions, s. 26.

SUSPENSION OR CANCELLATION OF CERTIFICATE, s. 27.
APPEAL FROM ORDER, ss. 28-29.
RESTORING CERTIFICATE, s. 30.
MEDICAL PRACTITIONERS NOT AFFECTED, s. 31.
REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Dentistry Act. New.* Short title.

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO.

2. "The Royal College of Dental Surgeons of Ontario," hereinafter called "the College," is continued, and every person who holds a valid and unforfeited certificate of license to practise dentistry granted to him by such College shall be a member of the corporation. R.S.O. 1897, c. 178, s. 1. Royal College of Dental Surgeons of Ontario, continued.

3.—(1) The College may purchase, take and possess for the purposes of the College, but for no other purpose, and after acquiring the same, may sell, mortgage, lease or dispose of any real estate. *New.* Power to hold real estate.

Consent to alienation, etc., required.

(2) Such real estate shall not be sold, mortgaged, leased or disposed of, except with the consent of the Board of Directors, given at a meeting duly called for that purpose.

(3) Notice of such meeting shall be given to every member of the Board, by letter mailed to his last registered address, seven days before the day appointed for such meeting, stating the object thereof. R.S.O. 1897, c. 178, s. 2 (2).

BOARD OF DIRECTORS.

Board of Directors of College of Dental Surgeons.

4.—(1) There shall be a Board of Directors of the College, hereinafter called " the Board."

(2) The Board shall consist of eight members, all of whom shall be members of the College, and they shall hold office for two years, and any four of them shall form a quorum.

(3) One member shall be elected for each electoral district mentioned in Schedule " A " by the members of the College resident in such district.

(4) No person shall be qualified to be elected as a member for an electoral district unless he is a resident in it and is a member of the faculty of the School of Dentistry.

(5) One member shall be elected by and from the faculty of the School of Dentistry.

(6) When a vacancy occurs in the representation of the faculty such vacancy shall be filled by the faculty. R.S.O. 1897, c. 178, s. 3.

Electoral districts.

5. The Province of Ontario shall, for the purposes of this Act, be divided into the seven electoral districts described in Schedule " A," R.S.O. 1897, c. 178, s. 4.

Election of board.

6.—(1) An election of the Board shall be held on the second Wednesday of December in every second year, reckoning from the year 1910; and the present Board shall hold office until the first meeting of the new Board.

(2) No person shall be qualified to vote at such election if he is in arrear in respect of any fees payable under the provisions of this Act.

(3) The votes at such election shall be given by closed voting papers, Form 1, which shall be delivered, or, if sent by mail, shall be received, at the office of the Secretary of the Col-

lege not earlier than the third Wednesday in November and not later than the second Wednesday in December in the year in which the election takes place.

(4) The manner of holding such election with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Board, and in default of such by-law, may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1897, c. 178, s. 5.

Vacancies in Board, how filled.

7. Any member of the Board may at any time resign by notice in writing to the Secretary, and in the event of such resignation, or of a vacancy occurring by death or otherwise, the remaining members of the Board shall, from the members of the College resident in the electoral district in which the vacancy occurs, elect some fit and proper person to fill the vacancy for the remainder of the term. R.S.O. 1897, c. 178, s. 6.

Meetings of Board.

8.—(1) Every newly elected Board shall hold its first meeting in the City of Toronto, on the first Monday in May or at such other time as may be fixed by the retiring Board, and the members of the Board shall hold office until the first meeting of their successors.

(2) Other meetings shall be held at such time and place as the Board appoints.

(3) Special meetings shall be called by the President on the request in writing of four members of the Board. R.S.O. 1897, c. 178, s. 7.

(4) All meetings shall continue from day to day until the business is finished; but no meeting shall continue for more than one week. R.S.O. 1897, s. 178, s. 20 (2).

OFFICERS OF BOARD.

Appointment of President and other officers.

9.—(1) Every Board shall at its first meeting elect a President, a Vice-President and a Registrar, and shall appoint a Treasurer and a Secretary, and such other officers as the Board considers necessary.

(2) The Treasurer and the Secretary shall receive such remuneration for their services as the Board may fix.

(3) The Board shall, if the President and Vice-President are absent, elect one of its members to preside at its meeting, who while so presiding shall have the same powers, and exercise the same functions as the President. R.S.O. 1897, c. 178, s. 8.

Remuneration.

10. There shall be paid to each member of the Board such fees for attendances, as shall be fixed by law, not exceeding $20 per day, and such reasonable travelling expenses as may be allowed by the Board. R.S.O. 1897, c. 178, s. 9.

Funds payable to the Treasurer.

11. All moneys under the control of the Board shall be paid to the Treasurer, and shall be applied for the purpose of the College. R.S.O. 1897, c. 178, s. 10.

SCHOOL OF DENTISTRY.

Establishment of a School of Dentistry.

12. The School of Dentistry in the City of Toronto established by the Board is hereby continued. R.S.O. 1897, c. 178, s. 11.

Examination.

13.—(1) The Board may appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination.

(2) Such examination shall be passed prior to entering into articles with a licentiate of Dental Surgery. R.S.O. 1897, c. 178, s. 12.

Curriculum for students, etc.

14.—(1) The Board may prescribe a curriculum of studies to be pursued by students, and fix and determine the period for which every student shall be articled and employed under a duly licensed practitioner, the examination necessary to be passed and the fees to be paid to the Treasurer before a certificate of license to practise Dental Surgery is issued.

Fees.

Admission of other persons.

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario, and students and graduates from other dental colleges may be admitted to membership in the College. R.S.O. 1897, c. 178, s. 13.

Arrangements for education of students.

15. The College may, subject to the approval of the Lieutenant-Governor in Council, make arrangements with any university or college in Ontario for the attendance of students of the School of Dentistry at such lectures or classes in such university or college as may come within the course or subjects of instruction prescribed by the by-laws of the

College, and may, subject to such approval, agree with any such university or college, for the use of any library, museum or property belonging to, or under the control of, such university or college, and may affiliate with any such university or college, and may enter into all arrangements necessary to that end upon such terms as may be agreed upon. R.S.O. 1897, c. 178, s. 14.

Title of M.D.S. may be conferred.

16. The Board may by by-law provide that any licentiate in dentistry, being a member of the College of not less than five years' standing, shall receive the title of "Master of Dental Surgery," upon passing such examination and complying with such regulations as the Board may prescribe. R.S.O. 1897, c. 178, s. 16.

BY-LAWS OF BOARD.

The Board to make rules, regulations, and by-laws.

17.—(1) The Board shall make such by-laws as it may deem necessary for the proper and better guidance, government, discipline and regulation of the Board, the College, the members of the College and the profession of Dental Surgery and the carrrying out of the provisions of this Act, and such by-laws shall be published for two consecutive weeks in the *Ontario Gazette,* and shall not take effect until so published.

May be annulled by Lieutenant-Governor.

(2) Such by-laws or any of them may be annulled by the Lieutenant-Governor in Council. R.S.O. 1897, c. 178, s. 17.

CERTIFICATES OF LICENSE.

Certificates may be granted to certain persons.

18.—(1) All persons being British subjects by birth or naturalization, who were engaged on 4th day of March, 1868, in the practice of the profession of dentistry, or, who, not having been residents of Ontario, had then had three years' experience in the practice of dentistry, shall be entitled to the certificate of "Licentiate of Dental Surgery," upon furnishing to the Board satisfactory proof of their having been so engaged, or having had such experience, passing the required examination and paying the prescribed fees.

(2) All persons being British subjects by birth or naturalization, who were continuously engaged for five years and upwards in established office practice, next preceding the 4th day of March, 1868, in the practice of the profession of dentistry in Ontario shall, upon satisfactory proof thereof, and upon payment of the prescribed fees, be entitled to such certificate without passing any examination. R.S.O. 1897, c. 178, s. 18.

Annual examinations.

19.—(1) The Board once at least in every year, shall cause to be held at a time fixed by the Board, an examination of the candidates for certificates and such titles as the Board has authority to grant.

Examinations oral or in writing.

(2) At every such examination the candidates shall be examined orally or in writing or otherwise, by examiners to be appointed for that purpose by the Board, in such subjects as the Board shall prescribe.

Fees of examiners.

(3) The examiners shall receive such remuneration as may be fixed by the Board.

Declaration to be made by examiners.

(4) Each examiner, shall if required, subscribe and take the following declaration:

Form of declaration.

"I solemnly declare that I will perform my duty of Examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all."

R.S.O. 1897, c. 178, c. 19

Certificate of License.

20.—(1) If the Board is satisfied by the examination that the candidate is duly qualified to practise the profession of Dental Surgery, and that he is a person of integrity and good moral character, it shall, subject to the by-laws, grant him a certificate of license and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges conferred by this Act. R.S.O. 1897, c. 178, s. 21.

Designation and title.

Annual meeting for granting licenses.

(2) The Board shall hold at least one meeting in each year in the City of Toronto, for the purpose of granting such certificates and titles and for the transaction of such other business as may properly come before it.

R.S.O. 1897, c. 178, s. 20 (1).

Certificate to be under the corporate seal. Evidence.

21. Every certificate of license shall be sealed with the corporate seal of the College and signed by the President and Secretary of the Board; and the production of such certificate of license shall be *prima facie* evidence in all courts and upon all proceedings, of its execution and contents. R.S.O. 1897, c. 178, s. 22.

Return of licenses granted.

22. The Secretary of the Board shall, on or before the 15th day of January in each year, transmit to the Provincial Secretary a certified list of the names of all persons to whom certificate of license have been granted during the year ending on the next preceding 31st day of December. R.S.O. 1897, c. 178, s. 23.

23. Every person desirous of being examined touching his qualifications for the practice of the profession of Dental Surgery, shall, at least one month before such examination, pay to the Treasurer the prescribed fees, and deliver to the Secretary the Treasurer's receipt for the same, together with satisfactory evidence of his service under articles and compliance with the rules and regulations prescribed by the Board, and of his integrity and good morals. R.S.O. 1897, c. 178, s. 24. Candidates to pay fees before examination.

ANNUAL FEES.

24.—(1) Every member of the College engaged in the practice of Dental Surgery in Ontario shall, on or before the first day of November in each year, pay to the Treasurer or to a person deputed by him to receive the same, such annual fee, not less than $1 and not more than $3, as may be prescribed by by-law of the Board, towards the general expenses of the College, and such fee shall be recoverable by suit in the name of the Royal College of Dental Surgeons of Ontario in the Division Court of the division in which the member in default resides. Annual fees.

(2) For any services rendered in the practice of Dental Surgery while he is in default in respect of any annual fee a member shall not be entitled to recover in any Court. R.S.O. 1897, c. 178, s. 25 (1).

PENALTY FOR PRACTISING WITHOUT LICENSE.

25.—(1) No person who is not a member of the College shall by himself or by any other person practise the profession of Dental Surgery, or perform any dental operation upon, or prescribe any dental treatment for any person, for hire, gain or hope of reward, whether by way of fees, salary, rent, percentage of receipts or in any other form, or shall pretend to hold, or take or use any name, title, addition or description implying that he holds a certificate of license to practise Dental Surgery, or that he is a member of the College, or shall falsely represent, or use any title representing that he is a graduate of any Dental College. No persons to practise without certificate, or without authority assume certain titles.

(2) Every person who contravenes any of the provisions of this section shall, for the first offence, incur a penalty not exceeding $50, and for every subsequent offence a penalty not exceeding $100 and he shall not be entitled to sue or recover in any Court for any services which he performed, or materials which he provided, in the ordinary and customary work of a dental surgeon. Penalty.

(3) This section shall not prevent any duly articled student of Dental Surgery from receiving instruction in clinics and practice under the personal supervision of a member of the College. R.S.O. 1897, c. 178, ss. 26 and 32. *Amended.*

Penalties how recoverable.

10 Edw. VII. c. 37.

(4) The penalties shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid over by the convicting justice to the Treasurer of the College. R.S.O. 1897, c. 178, s. 27.

In prosecutions burden of proof to be on defendant.

26. In any prosecution under this Act, the burden of proof that the defendant is entitled to practise the profession of Dental Surgery, or to use the title assumed by him, or that he is a graduate of the Dental College of which he professes to be a graduate, shall be upon him. R.S.O. 1897, c. 178, s. 31.

SUSPENSION OR CANCELLATION OF CERTIFICATE.

Power of Board to suspend or cancel certificates.

27.—(1) The Board may suspend or cancel the certificate of License of a member of the College who has been heretofore or shall hereafter be convicted in Canada or elsewhere of an indictable offence if his conviction remains unreversed, or who has been or shall be guilty of any infamous, disgraceful or improper conduct in a professional respect, but this power shall not be exercised if the conviction is for a political offence committed out of His Majesty's Dominions, or for an offence which, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to disqualify the person convicted from practising dentistry.

(2) Where a member has been guilty of infamous, disgraceful or improper conduct in a professional respect the power conferred by subsection 1 may be exercised notwithstanding that he has been acquitted of a criminal charge in respect of the same matter.

(3) The Board may of its own motion, and upon the application of any four members of the College shall, cause inquiry to be made into any case in which it is alleged that a member of the College has become liable to the suspension or cancellation of his certificate of license for any of the causes mentioned in subsection 1.

Standing Committee or Inquiry.

(4) The Board shall appoint and shall always maintain a Committee of its own body for the purpose of ascertaining the facts of each case which may become the subject of inquiry.

(5) The Committee shall consist of such number of members, not less than three or more than five, as the Board may prescribe, three of whom shall be a quorum.

By-laws as to tenure of office and proceedings before Council.

(6) The Board may pass by-laws for determining the tenure of office of the members of the Committee and for the regulation and conduct of its proceedings.

(7) Subject to the provisions of this section and of the by-laws of the Board, the Committee may regulate the time and place for the holding, the manner of the convening and giving notice, and the conduct of its meetings.

(8) If a vacancy occurs in the membership of the Committee the remaining members may appoint a member of the Council to fill the vacancy, and the member appointed shall hold office until the next meeting of the Board.

(9) Notwithstanding any vacancy in the Committee, so long as there are at least three members thereof, it shall be competent for the Committee to exercise all or any of its powers.

Employment of assistance.

(10) The Committee may employ, at the expense of the Board, for the purposes of any inquiry, such legal or other assistance as the Committee may deem necessary.

Appearance by counsel.

(11) The member whose conduct is the subject of inquiry shall have the right to be represented by counsel.

Place of meeting.

(12) All meetings of the Committee for taking evidence or otherwise ascertaining the facts shall be held within the county or district in which the member whose conduct is the subject of inquiry resides.

Notice of meeting.

(13) At least fourteen days' notice of the meeting of the Committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.

(14) The notice shall contain a statement of the matter which is to form the subject of the inquiry.

Evidence on oath.

(15) The testimony of the witnesses shall be taken under oath, which the Chairman or any member of the Committee may administer, and there shall be full right to cross-examine all witnesses called and to adduce evidence in defence and in reply.

Effect of non-appearance.

(16) If the person whose conduct is the subject of the inquiry though duly notified does not attend, the Committee may proceed in his absence, and he shall not be entitled to notice of the future meetings or proceedings of the Committee.

Subpœnas.

(17) The Committee and any party to the proceedings may obtain on *præcipe* from the High Court a subpœna for the attendance of witnesses and the production of books, documents and things, and disobedience thereof shall be deemed a contempt of Court.

Witness fees.

(18) Witnesses shall be entitled to the like allowances as witnesses attending upon the trial of an action in the High Court.

Report.

(19) The Committee shall report to the Board the evidence adduced and the Committee's findings thereon.

(20) The Board may act upon the report of the Committee and may make such order thereon as the Board may deem just.

Costs.

(21) Where the complaint is found to be frivolous or vexatious, the Board may pay such costs as to it may seem just to a member whose conduct has been the subject of inquiry.

(22) Where the Board directs the certificate of license of a member to be suspended or cancelled, it may direct that the costs of and incidental to the inquiry be paid by such member, and after taxation of such costs by one of the taxing officers ot Toronto, execution may issue out of the High Court for the recovery thereof in like manner as upon a judgment in an action in that Court. *New.*

No action to lie against Board or Committee.

28. No action shall be brought against the Board or the Committee or any member thereof for anything done in good faith under this Act on account of any want of form or irregularity in their proceedings, but a member whose certificate of license has been suspended or cancelled may at any time within six months from the date of the decision of the Board appeal from the decision of the Board to a Divisional Court of the High Court. *New.*

Appeal from decision of Board.

Practice and procedure on appeal. 10 Edw. VII. c. 30.

29. The practice and procedure upon and in relation to an appeal shall be similar to that provided by *The County Courts Act* as to appeals from the County Court except that the appeal shall be set down for argument at the first sittings of a Divisional Court which commences after the expiration of six months from the date of the decision complained of, and except that the proceedings and evidence shall be certified by the Registrar to the High Court. *New.*

30. The Board may direct the restoration of the certificate of license of any member whose certificate has been cancelled under the powers conferred by this Act, upon such terms and conditions as the Board may deem just. *New.*

Restoration of certificate.

31. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by *The Ontario Medical Act.* R.S.O. 1897, c. 178, s. 33.

This act not to interfere with registered medical practitioners.

32. Chapter 178 of the Revised Statutes of Ontario, 1897, is repealed.

Repeal.

SCHEDULE "A."

ELECTORAL DISTRICTS.

Electoral District No. 1 shall be composed of the following counties:—Addington, Carleton, Dundas, Frontenac, Glengarry, Grenville, Lanark, Leeds, Lennox, Prescott, Russell, Renfrew and Stormont.

Electoral District No. 2 shall consist of the following districts and counties:—Algoma, Durham, Haliburton, Hastings, Kenora, Manitoulin, Muskoka, Nipissing, Northumberland, Ontario, Prince Edward, Parry Sound, Peterborough, Rainy River, Sudbury, Thunder Bay, Victoria and York except the city of Toronto.

Electoral District No. 3 shall consist of the City of Toronto.

Electoral District No. 4 shall consist of the following counties:—Halton, Dufferin, Lincoln, Peel, Simcoe, Wentworth and Welland.

Electoral District No. 5 shall consist of the following counties:—Brant, Elgin, Haldimand, Norfolk, Oxford and Waterloo.

Electoral District No. 6 shall consist of the following counties:—Bruce, Grey, Huron and Wellington.

Electoral District No. 7 shall consist of the following counties:—Essex, Kent, Lambton, Middlesex and Perth.

R.S.O. 1897, c. 178, Sched. A.

FORM 1.

VOTING PAPER.

Election 19 .

Electoral District No.

I, of the of in the county or district of member of the Royal College of Dental Surgeons of Ontario, declare:—

1. That the signature affixed hereto is my proper handwriting.

2. That I am a voter in the Electoral District No. and that I vote for of the of in the county or district of a member of the Royal College of Dental Surgeons of Ontario and an elector in said Electoral District to be a member of the Board of Directors of the College for the said district.

3. That I have not in this election signed any other voting paper and that this voting paper was executed on the day of the date thereof.

Witness my hand this day of 19 .

R.S.O. 1897, c. 178, Sched. B.

No. 105.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Dentistry.

First Reading.

Mr. Pyne.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty

No. 106. 1911.

BILL

An Act respecting Pharmacy.

SHORT TITLE, s. 1.
ONTARIO COLLEGE OF PHARMACY CONTINUED, s. 2.
POWER TO HOLD REAL ESTATE, s. 3.
PHARMACEUTICAL COUNCIL, ss. 4-10.
EXAMINATION OF CANDIDATES FOR CERTIFICATES OF COMPETENCY, ss. 11-13.
WHO MAY APPLY FOR CERTIFICATE, s. 14.
PRELIMINARY EXAMINATIONS, s. 15.
REGISTRATION OF QUALIFIED PERSONS, ss. 16-23.
CERTIFICATE TO BE DISPLAYED, s. 24.
RETIRING FROM BUSINESS, s. 25.
DEATH, s. 26.
PREPARATION OF COMPOUNDS, s. 27.
SALE OF POISONS, ss. 28-34.
OFFENCES AND PENALTIES, ss. 35-39.
MEDICAL PRACTITIONERS, ETC., NOT AFFECTED BY THIS ACT, s. 40.
SALES TO CHEMISTS, ETC., NOT AFFECTED, s. 41.
PATENT MEDICINES, s. 42.
HONORARY MEMBERS, s. 43.
DIVISION ASSOCIATIONS, s. 44.
REPEAL, s. 45.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Pharmacy Act*. R.S.O. 1897, c. 179, s. 1.

Ontario College of Pharmacy continued.

2. The Ontario College of Pharmacy, hereinafter called "the College," is hereby continued. R.S.O. 1897, c. 179, s. 2.

Power to hold real estate.

3. The College may purchase, take and possess for the purposes of the College, but for no other purpose, and after acquiring the same, may sell, mortgage, lease or dispose of any real estate. *New.*

PHARMACEUTICAL COUNCIL.

Council of whom composed.

4.—(1) There shall be a Council of the College to be called the Pharmaceutical Council, hereinafter called "The Council" which shall consist of thirteen members, who shall be elected as hereinafter provided, and shall hold office for two years.

(2) The Council shall, subject to the by-laws thereof, have sole control of the real and personal property of the College, and authority to grant certificates of competency to conduct the business of a chemist or druggist, and to be registered subject to the provisions of this Act.

(3) The members of the council shall be elected from among those members of the College who are actively engaged on their own account, and as proprietors, in the occupation of Pharmaceutical Chemists, whether carrying on business as retail, wholesale, or manufacturing chemists, and who reside in Ontario. R.S.O. 1897, c. 179, s. 4.

Electoral divisions.

5.—(1) The Province of Ontario shall, for the purposes of this Act, be divided into thirteen Electoral Districts described in Schedule "B." *New.*

Re-arrangement of.

(2) The Council may re-arrange the geographical boundaries of the Electoral Districts by by-law, approved of by the Lieutenant-Governor in Council, but such re-arrangement shall not be made more often than once in ten years. R.S.O. 1897, c. 179, s. 5 (3).

Subsequent elections.

6. An election of members of the Council shall be held on the first Wednesday in August in every second year, and the persons qualified to vote at the election shall be such persons as are members of the College, and are liable to pay the annual fee under this Act. R.S.O. 1897, c. 176, s. 7; 5 Edw. VII. c. 16, s. 3.

Members of Council to be residents of electoral district.

7.—(1) One member of the Council shall be elected for each Electoral District by the members of the College, resident in such District and he shall be a person carrying on the business of a chemist or druggist therein.

(2) The manner of holding such election, with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Council, and in default of such by-law may be prescribed by the Lieutenant-Governor in Council. *New.*

Resignation of members, and vacancy how filled.

8. A member of the Council may at any time resign by notice in writing to the Registrar of the College; and in the event of such resignation or in the event of a vacancy occurring, the remaining members of the Council shall appoint a member of the College carrying on business in the Electoral

District in the representation of which the vacancy occurs, to fill the same. R.S.O. 1897, c. 179, s. 6; 5 Edw. VII. c. 16, s. 2.

Election of president and officers.

9. The Council shall, at their first meeting, elect from among themselves a President and a Vice-President, and shall appoint a Registrar and such other officers as the Council may consider necessary. R.S.O. 1897, c. 179, s. 8.

Meetings of the Council.

10.—(1) The Council shall hold at least two meetings for the transaction of general business in every year, on the first Monday in June, and the third Monday in November, at such places as they may by resolution appoint.

(2) Unless otherwise provided by by-law of the council notice of such two meetings shall be given once a week for at least four weeks in the *Ontario Gazette*, and in at least two newspapers published in the City of Toronto. R.S.O. 1897, c. 179, s. 9; 63 V. c. 21, s. 1; 5 Edw. VII. c. 16, s. 4.

POWERS OF COUNCIL.

Powers of Council as to school of instruction.

11.—(1) The Council may establish and carry on a school of instruction and appoint such professors, lecturers, instructors, officers, servants and employees therefor as may be deemed necessary.

(2) The school now established and carried on by the Council in the City of Toronto may be continued. *New.*

Powers of the Council as to subjects of examination, fees, etc.

12.—(1) Subject to the disallowance thereof by the Lieutenant-Governor in Council, the Council may prescribe the subjects upon which candidates for certificates of competency shall be examined, and a curriculum of studies to be pursued by the students, establish a scale of fees, not to exceed $10, to be paid by persons applying for examination, make by-laws, rules and orders, for the regulation of its own meetings and proceedings and those of the College, and for the discipline, suspension or expulsion for cause of any student, and for the remuneration and appointment of examiners and officers of the College, for defining the duties of such examiners and officers, for the payment of remuneration or indemnity to the members of the Council, for attending its meetings or upon the business of the College, and in respect to any other matters which the Council may deem requisite for the carrying out of this Act. R.S.O. 1897, c. 179, s. 10 (1); 5 Edw. VII. c. 16, s. 5.

Allowances to members

(2) Not more than five cents per mile for travelling expenses, or more than $5.00 per diem for such days as a member is in actual attendance at a meeting of the Council or at any meeting mentioned in subsection 3 or upon the business of the College including going to and returning therefrom shall be allowed to him for such expenses and remuneration. R.S.O. 1897, c. 179, s. 10 (2); 5 Edw. VII. c. 16, s. 6.

Appointment of representative to attend Inter-Provincial Associations.

(3) The Council may appoint, from time to time, one or more representatives to attend meetings of Inter-Provincial or other Pharmaceutical Associations, and may pay out of the College funds to any one or more of such Associations, such sums as it may deem proper. 10 Edw. VII. c. 78, s. 1.

Who may examine.

13. The examinations of the College may be conducted by the members of the Council, or by persons appointed by the Council. R.S.O. 1897, c. 179, s. 11.

WHO MAY APPLY FOR CERTIFICATES.

Qualification of candidates for certificates of competency.

14.—(1) Subject to the rules, regulations and by-laws, the following persons and no others may be admitted as candidates for certificates of competency:

(*a*) Any person who was registered as an apprentice prior to the 23rd day of March, 1889, and who furnishes to the Council satisfactory evidence of having, in pursuance of a binding contract in writing for that purpose, served as an apprentice to a regularly qualified pharmaceutical chemist for a term of not less than three years;

(*b*) Any person of the full age of twenty-one years registered as an apprentice on or after the 23rd day of March, 1889, who furnishes to the Council satisfactory evidence of having so served as an apprentice for a term of not less than four years and who has attended two courses of lectures at the School, comprising pharmacy, practical pharmacy, chemistry, practical chemistry, materia medica, botany and reading and dispensing prescriptions. R.S.O. 1897, c. 179, s. 12 (1); 5 Edw. VII. c. 16, s. 7.

(2) The period occupied in attending the first of the two courses of lectures may be counted as part of the term of apprenticeship.

(3) If any person, by reason of the death, failure in business, or removal of his employer, or from any other cause satisfactory to the Council, is unable to complete his term of apprenticeship, he may enter into a new contract to complete the remainder of his unfulfilled term with any other regularly qualified pharmaceutical chemist. R.S.O. 1897, c. 179, s. 12 (2-4).

(4) Nothing in this section shall apply to any person who had, prior to the 25th day of March, 1884, begun his apprenticeship with a regularly qualified pharmaceutical chemist without such binding contract in writing. R.S.O. 1897, c. 179, s. 12 (2-4).

PRELIMINARY EXAMINATIONS.

Matriculation, requirements as to.

15.—(1) Every person desirous of becoming apprenticed shall, before the term of his apprenticeship begins, send to the Registrar the sum of $1 together with a certificate of the Department of Education or of a University or College within Ontario, or other evidence satisfactory to the Council, showing that the applicant has passed an examination as required for university matriculation in arithmetic, algebra, English history, Canadian history, English grammar, and composition and Latin.

Power to change curriculum as to matriculation.

(2) The Council may make such changes in the subjects mentioned in the next preceding subsection as it may deem necessary in order to comply with the requirements of the Department of Education. 63 V. c. 21, s. 2.

Extended time for passing in two subjects.

(3) If an applicant has failed to obtain pass standing in not more than two subjects he may be apprenticed and registered, and his term of apprenticeship shall then begin: provided that he completes his matriculation by passing in such two subjects at any subsequent examination before entering on the first course of lectures at the School. *New.*

Exception as to application of section.

(4) Except as to the fee payable, this section shall not apply to matriculants in arts or medicine in any British or Colonial University or College, or the holders of senior leaving or junior leaving certificates issued by the Department of Education, or to persons who produce evidence of having passed an examination at least equal in point of standard to that of the latter. 63 V. c. 21, s. 2.

(5) Upon complying with the provisions of this section the applicant shall be entitled to be registered as an apprentice. *New.*

REGISTRATION.

Register, how kept.

16. The Registrar shall keep a register, Form 1, of all persons entitled to be registered as a pharmaceutical chemist under this Act, and shall enter opposite the names of all registered persons who have died, a statement of that fact, and shall make all necessary alterations in the addresses of persons registered, and shall cause to be printed and published on or before the fifteenth day of June of each year, an alphabetical list of the members who were on the first day of June of that year entitled to carry on business as pharmaceutical chemists. R.S.O. 1897, c. 179, s. 14.

Entry on the roll.

17. Any person who has passed the prescribed examination to the satisfaction of the Council, shall be entered upon the register, and shall become a member of the College. R.S.O. 1897, c. 179, s. 15.

Persons holding diplomas from other societies may be registered.

18. All persons approved of by the Council who hold diplomas from the Pharmaceutical Society of Great Britain, or certificates from any Pharmaceutical College in the Dominion of Canada or elsewhere, may be registered as members of the College without the examination prescribed by this Act. R.S.O. 1897, c. 179, s. 16.

Who may be entered on the register.

Appeal from decision of the registrar.

Fraudulent or incorrect entries may be erased.

19. No name shall be entered in the register unless the Registrar is satisfied by proper evidence that the person claiming is entitled to be registered; and any appeal from the decision of the Registrar shall be decided by the Council; and any entry proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased from or amended in the register by order of the Council. R.S.O. 1897, c. 179, s. 17.

Certificate to be granted on registration.

20. Upon a person being registered, he shall be entitled to receive a certificate, Form 2, under the corporate seal of the College, and signed by the Registrar, and such certificate shall be *prima facie* evidence in all courts, and upon all proceedings of whatever kind of its execution and contents. R.S.O. 1897, c. 179, s. 18.

Fees.

21.—(1) There shall be payable to the Registrar, for the uses of the College, on the first day of May of each year, or such other day as the Council may fix by by-law, by every person registered and carrying on business as a pharmaceutical chemist, and by every registered director and registered manager of an incorporated company carrying on the busi-

ness of a pharmaceutical chemist, such sum not exceeding $4 as may be determined by by-laws of the Council, and if such person or incorporated company carries on business in more than one shop, each such person and his registered manager and each registered director and registered manager of such incorporated company shall pay a further sum not exceeding $4, as provided by the by-laws of the Council, for each additional place of business carried on.

(2) No person shall manage or have charge of any such additional place of business unless he is registered as a pharmaceutical chemist. R.S.O. 1897, c. 179, s. 19; 5 Edw. VII. c. 16, s. 8.

Who alone may act as Pharmaceutical Chemist.

22. Any person registered under section 17, and no other person, shall be entitled to be called a pharmaceutical chemist, and no person except a pharmaceutical chemist, or his registered apprentice, shall compound prescriptions of medical practitioners; but no person shall be entitled to any of the privileges of a pharmaceutical chemist, or of a member of the College, who is in default in respect to any fees payable by him by virtue of this Act. R.S.O. 1897, c. 179, s. 20.

Erasing name of member on conviction of offence.

23. Upon a resolution of the Council being passed declaring that any person in consequence of his conviction of a crime or of an offence against this Act, is, in the opinion of the Council, unfit to be on the register, the Lieutenant-Governor in Council may direct that the name of such person shall be erased from the register, and the Registrar shall erase the same accordingly. R.S.O. 1897, c. 179, s. 21.

Certificate to be publicly displayed

24. Every pharmaceutical chemist carrying on business on his own account and every manager of each additional place of business shall display his certificate in a conspicuous position in his place of business, or the place of business which he manages. R.S.O. 1897, c. 179, s. 22.

Person retiring from business to notify registrar.

25. Every person registered as a pharmaceutical chemist shall, on retiring from business, give the Registrar notice in writing of the same, and his name shall be erased from the register, and he shall cease to enjoy any of the privileges of the College, and in default of such notice he shall remain liable for his annual registration fee; but any such person may resume business at any time after retiring therefrom upon giving notice in writing to the Registrar of his intention so to do, and upon payment of the annual registration fee for the then current year. R.S.O. 1897, c. 179, s. 23.

Executors may carry on business of deceased chemist, etc.

26. Nothing in this Act shall prevent the executor or administrator or the trustee of the estate of any person legally authorized to carry on and actually carrying on the business of a pharmaceutical chemist at the time of his death, from continuing the business so long only as it is *bona fide* conducted by a pharmaceutical chemist registered under this Act, if such executor, administrator or trustee continues to pay the annual registration fee. R.S.O. 1897, c. 179, s. 24.

PREPARATION OF COMPOUNDS.

How compounds are to be prepared.

27. Unless the label distinctly shews that the compound is prepared according to another formula, every compound named in the British Pharmacopæia shall be prepared according to the formula directed in the latest edition published "by authority" until the College of Physicians and Surgeons of Ontario selects another standard and thereafter according to such standard. R.S.O. 1897, c. 179, s. 25.

SALE OF POISONS.

Restriction on sale of poisons, etc., and on the assumption of certain titles.

28. No person shall,

(*a*) Sell or keep open shop for retailing, dispensing or compounding poisons, drugs or medicines except patent or proprietary medicines, (subject to section 42) and except turpentine, epsom salts, senna, alum, borax, castor oil, sulphur, glauber's salt, cream of tartar, carbonate of soda, bi-carbonate of soda, glycerine, carbonate of magnesia, citrate of magnesia, rochelle salts, blue stone, copperas, saltpetre, spirits of nitre, rhubarb root, solution of ammonia, phosphate of soda, gum camphor, quinine, or chloride of lime, or sell or attempt to sell any of the articles mentioned in Schedule A, or

(*b*) Assume or use the title of "Chemist and Druggist," or "Chemist,"or "Druggist," or "Pharmacist," or "Apothecary," or "Dispensing Chemist," or "Dispensing Druggist," or any sign, title or advertisement, implying or calculated to lead the public to infer that he is registered under this Act.

unless such person is registered under this Act, and has a certificate under section 20. R.S.O. 1897, c. 179, s. 26, *part*: 5 Edw. VII. c. 16, s. 9; 9 Edw. VII. c. 64, s. 1.

Shops kept by incorporated companies.

29. No incorporated company shall do any of the acts prohibited by the next preceding section, unless a majority of the directors thereof are duly registered under this Act, and unless one of such directors personally manages and conducts such open shop, and has his name and certificate displayed in a conspicuous position therein, and no person not so registered shall in any way interfere with or take part in the management and conduct of such shop, and anything done or omitted which would be an offence under this Act if done or omitted by an individual shall be an offence by each of such registered directors, and by such company, and the prosecution of any one or more of them shall not be a bar to the prosecution of the other or others. 6 Edw. VII. c. 25, s. 1.

Certain poisons may be sold by any person if marked "poison."

30.—(1) Nothing in this Act shall prevent the sale, by persons not registered, of paris green, hellebore, tincture of iodine, arsenate of lead, carbolic acid, not exceeding a five per cent. solution, and London purple, if such articles are sold in well secured packages distinctly labelled with the name and address of the person preparing or putting up such packages and marked "poison." R.S.O. 1897, c. 179, s. 26, *part*; 9 Edw. VII. c. 64, s. 2.

Entry of sale of carbolic acid.

(2) A record shall be kept by the vendor in a book for that purpose of the name and address of each person to whom the carbolic acid is sold. 9 Edw. VII. c. 64, s. 2.

Sale of cocaine, etc., except upon prescription prohibited.

31.—(1) No person or incorporated company shall sell by retail, furnish or dispose of alkaloid cocaine or its salts or alpha or beta eucane or their salts or any admixture of cocaine or eucane except upon the written prescription of a legally qualified medical practitioner, which shall be retained by the person who sells, furnishes or disposes of the same, and a record of the prescription shall be kept in a book which shall contain the name of the physician, the number of the prescription, the quantity sold, the name of the person for whom prescribed or supplied, and the date of the sale.

Prescription not to be filled more than once.

(2) The prescription shall not be filled more than once and no copy thereof shall be taken by or given to any person by the person who has the custody or control thereof.

Wholesaler not to sell except to pharmaceutical chemist.

(3) Alkaloid cocaine or its salts and alpha and beta eucane or their salts, or any admixture thereof, shall not be sold or disposed of by wholesale except upon the written order of a pharmaceutical chemist, a legally qualified medical practitioner, a licensed veterinary surgeon or a licentiate of dental surgery and unless the person so selling

or disposing by wholesale affixes or causes to be affixed to the bottle,box, vessel or package containing the articles sold and also upon the outer wrapper of the package as put up by the manufacturer a label distinctly displaying the name and quantity of cocaine or its salts or alpha or beta eucane or its salts, sold or disposed of and the word "poison" with the name, address and place of business of such person, all printed in red ink.

Record of sales to be kept by vendor.

(4) The person or incorporated company who so sells or disposes by wholesale shall before delivering any of such articles make or cause to be made in a book kept for that purpose an entry of the sale or disposal thereof stating the date of sale or disposal, the quantity, name and terms in which the sale or disposition was made, the name in full and the address of the person to whom the sale or disposal was made, and the name of the person by whom the entry was made, and the books shall be preserved for at least five years after the date of the last entry made therein. 8 Edw. VII. c. 40, s. 1.

Certain articles to be deemed poisons.

32. The articles mentioned in Schedule A shall be deemed to be poisons within the meaning of this Act, and the Council may by resolution declare that any article in the resolution named ought to be deemed a poison within the meaning of this Act, and thereupon the Council shall submit the resolution for the approval of the Lieutenant-Governor in Council, and if approved, such resolution and the approval thereof, shall be published in the *Ontario Gazette,* and on the expiration of one month from such publication the article named in the resolution shall be deemed to be a poison within the meaning of this Act, and the same shall be subject to the provisions thereof, or such of them as may be directed by the Lieutenant-Governor in Council. R. S.O. 1897, c. 179, s 27.

Certain poisons to be sold only in a certain manner.

33.—(1) No person or incorporated company shall sell any poison, either by wholesale or retail, unless the box, bottle, vessel, wrapper or cover in which the poison is contained is distinctly labelled with the name of the article and the word "poison" and if sold by retail, then also with the name and address of the proprietor of the establishment in which such poison is sold; and no person shall sell any poison of those which are in the first part of Schedule A or may hereafter be added thereto under section 32 to any person unknown to the seller unless introduced by some person known to the seller, and on every sale of any such article the person actually selling the same shall, before delivery,

Regulations to be observed in the sale of poisons.

make an entry, Form 2, in a book to be kept for that purpose stating the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person who introduced him, to which entry the signature of the purchaser shall be affixed. R.S.O. 1897, c. 179, s. 28.

(2) Nothing in this section shall apply to any article when forming part of the ingredients of any medicine prescribed by a legally qualified medical practitioner if the medicine is labelled with the name and address of the seller and the ingredients thereof are entered with the name of the person to whom it is sold or delivered in a book to be kept for that purpose. *New.* Imp. Act 31 and 32 V., c. 121, s. 17.

34. Any book by this Act required to be kept shall be open to inspection by any Police Officer or Constable, or any authorized agent of the College. *New.* See 8 Edw. VII. c. 40, s. 1 (4). Books to be open to inspection by constables and agent of college.

OFFENCES AND PENALTIES.

35. The prohibitions, restrictions and provisions contained in this Act as to selling poisons shall extend to exhibiting or offering for sale, or giving, furnishing or otherwise disposing of them. *New.* Selling to include giving, furnishing or disposing of poisons.

36. No person shall wilfully or knowingly sell any article under the representation or pretence that it is a particular drug or medicine which it is not, and any person so doing in addition to any other penalty to which he may be liable shall incur the penalty prescribed by section 37. R.S.O. 1897, c. 179, s. 29. Penalties on wrongful sales.

37. Any person who contravenes any of the provisions of this Act, shall for the first offence incur a penalty of $20, and for each offence committed subsequent to such conviction, a penalty of $50 recoverable under *The Ontario Summary Convictions Act,* and one half shall be paid over by the convicting justice to the prosecutor and the other half to the Registrar for the use of the College. R.S.O. 1897, c. 179, s. 30. Penalties for infringement of this Act. 10 Edw. VII., c. 37.

38. In any prosecution under this Act the burden shall rest on the defendant to prove that he is registered and holds a certificate under this Act, and to give evidence sufficient *prima facie* to prove that no unregistered person who personally takes any part in selling or dispensing drugs or medicines is interested with him in his sales thereof. R.S.O. 1897, c. 179, s. 31. Proof by defendant on prosecution.

Price of articles sold contrary to this Act not to be recovered.

39. A person who sells any article in violation of the provisions of this Act shall not be entitled to recover any charges in respect thereof. R.S.O. 1897, c. 179, s. 32.

ACT NOT TO AFFECT MEDICAL PRACTITIONERS.

Act not to apply to medical practitioners, etc.

40. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by *The Ontario Medical Act,* Provided that where such medical practitioner desires to carry on the business of a Pharmaceutical Chemist as defined by this Act, he shall not be required to pass the examination prescribed by the College, but he shall register as a Pharmaceutical Chemist, and comply with all other requirements of this Act. R.S.O. 1897, c. 179, s. 33, *part.*

Proviso.

Rev. Stat. c. 176.

Sales to chemists, etc., not affected.

41. Nothing in this Act shall prevent any person from selling goods of any kind to a pharmaceutical chemist or to a legally qualified medical practitioner or to a veterinary surgeon, or shall prevent a legally qualified medical practitioner or a veterinary surgeon from supplying such medicine as he may prescribe, or, except as provided by section 31, shall interfere with the business of wholesale dealers in supplying poisons, or other articles in the ordinary course of wholesale dealing. R.S.O. 1897, c. 179, s. 33, *part.*

Selling patent medicines.

42.—(1) Nothing in this Act shall interfere with or affect the making or dealing in patent or proprietary medicines, except as in this section provided.

(2) The Provincial Board of Health may if in its opinion there is reason to apprehend that any such medicine contains any poison mentioned in Schedule A in such quantity as renders its use in the doses prescribed prejudicial to health or dangerous to life, may cause an analysis of such medicine to be made by an analyst or other competent person appointed by the Lieutenant-Governor in Council.

(3) If on such analysis it is reported that the medicine contains any of such poisons in a quantity which renders its use in the doses prescribed prejudicial to health or dangerous to life, the Board may give notice to the manufacturer or proprietor of the medicine, or to his agent or representative in Ontario of the result of the analysis, and shall name a convenient time and place at which the manufacturer or proprietor may be heard before the Board in opposition to the report.

(4) If the Board is of the opinion that the medicine is in the doses prescribed prejudicial to health or dangerous to life, the Board shall transmit to the Provincial Secretary the report of the analysis, and the objections, if any, made

to the same by the manufacturer or proprietor, and their own report thereon, and if the Lieutenant-Governor in Council approves of the report of the Board notice thereof may be given in the *Ontario Gazette*, and after such notice, the provisions of this Act with regard to poisons shall apply to such patent or proprietary medicines whether sold by persons registered in pursuance of this Act, or by others. R.S.O. 1897, c. 179, s. 34.

HONORARY MEMBERS.

Election of honorary members.

43. The Council may elect as honorary members of the college such persons as they may deem eminent for scientific attainments, but no such honorary members shall be entitled to vote at elections or carry on the business of pharmaceutical chemists, unless registered as a pharmaceutical chemist. R.S.O. 1897, c. 179, s. 35.

DIVISION-ASSOCIATIONS.

Establishment of Territorial Division Pharmaceutical Associations.

44. In each of the Electoral Districts there may be established a Division Association which may be called the "Division Association" of such district, of which every member of the College residing in such district shall be a member, and each representative in the Council shall be *ex-officio* Chairman of such Division Association. R.S.O. 1897, c. 179, s. 36.

Repeal.

45. Chapter 179 of the Revised Statutes of Ontario, 1897 and chapter 21 of the Acts passed in the 63rd year of the reign of Her late Majesty Queen Victoria, chapter 16 of the Acts passed in the 5th year, chapter 25 of the Acts passed in the 6th year, chapter 64 of the Acts passed in the 9th year, and chapter 78 of the Acts passed in the 10th year of the reign of His late Majesty King Edward the Seventh are repealed.

[As to the sale of liquor for medicinal purposes see *The Liquor License Act*. R.S.O. c. 245, s. 52.]

SCHEDULE A.

PART I.

Acid, Hydrocyanic (Prussic),
Aconite, and preparations and compounds thereof,
Antimony, Tartarated (Tartar Emetic),
Arsenic, and preparations and compounds thereof, except Paris Green,
Atropine,
Carbolic Acid, exceeding a five per cent. solution,
Chloral Hydrate,
Cocaine, and its preparations,
Digitalin,
Ergot, and preparations and compounds thereof,
Indian Hemp,
Mercury Bichloride (Corrosive Sublimate),
Morphia and its Salts and solutions,
Nux Vomica.
Oil of Cedar,
Strychnine and its salts.
Savon and preparations thereof,
Veratrine.

PART II.

Acetanilide (Antifebrin),
Acid, Oxalic,
Antipyrine,
Antimony, preparations of,
Belladona, and preparations and compounds thereof,
Calabar Beans,
Cantharides,
Chloroform and Ether,
Columbia spirits,
Conium and preparations thereof,
Cotton Root and preparations,
Cocculus Indicus (Fish Berry),
Creosote,
Croton Oil and Seeds,
Euphorbium,
Elaterium,
Formaldehyde,
Goulard's Extract,
Hyoscyamus and preparations,
Iodine and preparations,
Mercury and preparations,
Opium and preparations and compounds thereof, including laudanum but not paregoric.
Oil of Tansy,
Oil of Bitter Almonds,
Oil of Pennyroyal and preparations,
Phenacetin,
Pink Root,
Podophyllin (Resin Podophyllin),
Potassium, Iodide.
Potassium, Bromide,
Potassium, Cyanide,
Phosphorus in a free state,
Rue and all preparations,
St. Ignatium Beans,
Santonin,
Sabadilla Seeds,
Scammony,
Sulfonal,
Trional,
Valerian,
Verdigris,
Zinc, Sulphate,
Columbia Spirits.

R.S.O. 1897, c. 179, Sched. A.; 9 Edw. VII. c. 64, s. 3; 10 Edw. VII. c. 26, s. 19.

(See Order-in-Council dated June 7, 1907.)

FORM I.

REGISTER.

Name.	Residence.	Qualifications.	Remarks.
A. B.	Kingston.	In business for three years prior to (*date*)	Dead.
C. D.	Toronto.	Examined and Certified, (*date*)	Erased by order of the Lieut.-Gov., (*date*).
E. F.	London	Served apprenticeship and as assistant.	

R.S.O. 1897, c. 179, Sched. B.

FORM 2.

ENTRY OF SALE.

Date.	Name of purchaser.	Name and quantity of poison sold.	Purpose for which it is required.	Signature of purchaser	Address of purchaser.	Name of person introducing purchaser.	Name of medical practitioner on whose prescription furnished.

R.S.O. 1897, c. 179, Sched. C.

FORM 3.

CERTIFICATE OF REGISTRATION.

I hereby certify that *C. D.* having complied with the requirements of *The Pharmacy Act*, was on the day of , A.D. 19 , duly registered as a Pharmaceutical Chemist, and is authorized to carry on the business of Chemist and Druggist in the Province of Ontario, from the day of 19 , to the day of , 19 .

R. .F,
Registrar of the Ontario College of Pharmacy.

[Corporate Seal]

R.S.O. 1897, c. 179, Sched. D.

SCHEDULE B.

ELECTORAL DISTRICTS.

No. 1 Division.—The Counties of Glengarry, Prescott, Stormont, Russell, Dundas, Carleton, Grenville, Lanark and Renfrew.

No. 2 Division.—The Counties of Leeds, Frontenac, Lennox and Addington, Prince Edward and Hastings.

No. 3 Division.—The Counties of Northumberland, Durham, Peterborough, Victoria and Ontario.

No. 4 Division.—St. George's, St. Lawrence, St. John's, St. James', St. Thomas', St. David's, St. Matthew's, wards in the City of Toronto.

No. 5 Division.—St. Paul's, St. Patrick's, St. Stephen's, St. Mark's, St. Andrew's and St. Alban's Wards in the City of Toronto.

No. 6 Division.—The Counties of Simcoe, York (except the City of Toronto), the Provisional County of Haliburton and the Districts of Algoma, Parry Sound, Muskoka, Thunder Bay, Nipissing and Rainy River.

No. 7 Division.—The Counties of Peel, Wellington, Halton and Dufferin.

No. 8 Division.—The Counties of Wentworth, Lincoln and Welland.

No. 9 Division.—The Counties of Haldimand, Brant and Waterloo.

No. 10 Division.—The Counties of Norfolk, Oxford and Perth.

No. 11 Division.—The Counties of Elgin and Middlesex.

No. 12 Division.—The Counties of Huron, Grey and Bruce.

No. 13 Division.—The Counties of Lambton, Kent and Essex.

No. 106.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act Respecting Pharmacy.

First Reading.

Mr. PYNE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 107. 1911.

BILL

An Act to amend the Public Schools Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 7 of *The Public Schools Act* is repealed and the following substituted therefor: 9 Edw. VII., c. 89, s. 7, subs. 1, repealed.

School year and school terms.

7.—(1) The school year shall consist of two terms, the first of which shall begin on the first day of September and shall end on the 22nd day of December, and the second of which shall begin on the 3rd day of January and end on the 29th day of June.

No. 107.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Public Schools' Act.

First Reading, 31st day of Jan., 1911.

Mr. Bowyer.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty

108

No. ~~108~~ 1911

BILL

An Act to amend the Line Fences Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Line Fences Act* is amended by adding thereto the following section:— R.S.O., c. 284, amended.

Clearing land adjoining fence.

16*a*. Owners and occupants of the land immediately adjoining a division or line fence on either side shall keep such land free from weeds, stones, brush, and refuse of any kind, and in case of default proceedings may be taken as provided by subsections 2, 3 and 4 of section 16.

No. 108

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Line Fences Act.

First Reading 1st day of Feb., 1911.

Mr. HOYLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

109

No. [redacted] 1911

BILL

An Act to amend The Voters' Lists Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Ontario Voters' Lists Act* is amended by adding thereto the following subsection:— 7 Edw. VII. c. 4, s. 17, amended.

(5) The clerk shall forthwith, after posting up the list of appeals in his office, deliver or transmit by post, by registered letter, or by parcel post registered, one copy of the list to each of the persons described in subsection 2 of section 9. Distribution of list of appeals.

2. Subsection 5 of section 14 of the said Act is amended by striking out the words "the Judge may receive as evidence" in the second line and by adding after the words "Form 4" in the sixth line "shall be receivable as evidence." 7 Edw. VII. c. 4, s. 14, subs. 5, amended.

109

No. ~~102~~

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Voters' Lists Act.

First Reading 1st day of Feb., 1911.

Mr. HOYLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 109. 1911.

BILL

An Act to amend The Voters' Lists Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 15 of *The Ontario Voters' Lists Act* is amended by inserting therein the following subsection: 7 Edw. VII., c. 4, s. 15, amended.

(2*a*) A person whose name is entered on any part of the list and has before the time for giving notice of appeal to the judge has expired, ceased to possess the qualification in respect of which his name was so entered, on complaint being duly made under section 17, shall be deemed to be wrongfully entered on the list and, subject to the provisions of section 19, his name shall be removed therefrom. Complaint that person named on list has lost qualification.

2. Subsection 1 of section 17 of the said Act is amended by striking out the words "of any error or omission in the list" in the 1st and 2nd lines and inserting in lieu thereof the words "in respect of the list." 7 Edw. VII., c. 4, s. 7, subs. 1, amended.

3. Section 17 of *The Ontario Voters' Lists Act* is amended by adding thereto the following subsection:— 7 Edw. VII. c. 4, s. 17, amended.

(5) The clerk shall forthwith, after posting up the list of appeals in his office, deliver or transmit by post, by registered letter, or by parcel post registered, one copy of the list to each of the persons described in subsection 2 of section 9. Distribution of list of appeals.

4. Subsection 5 of section 14 of the said Act as enacted by subsection 2 of section 3 of *The Statute Law Amendment Act, 1908*, is amended by striking out the word "may" in the second line thereof and inserting in lieu thereof the word "shall." 7 Edw. VII. c. 4, s. 14, subs. 5, amended.

7 Edw. VII., c. 4, ss. 21, 22, repealed.

5. Sections 21 and 22 of *The Ontario Voters' Lists Act* are repealed and the following substituted therefor:

Certifying list by County Judge when no complaint made.

21.—(1) If no complaint is made within thirty days after the Clerk has posted up the list in his office, he shall forthwith apply either in person or by letter to the Judge to certify (Form 14) a sufficient number of copies of the list as being the last revised list of voters for the municipality to furnish one copy of such list to each of the following persons, namely:

Who to receive copies.

(*a*) The Judge;

(*b*) The Clerk of the Peace;

(*c*) The Clerk of the Municipality;

(*d*) The Member of the House of Commons for the electoral district in which the municipality or any part thereof lies;

(*e*) The Member of the Assembly for the electoral district in which the municipality or any part thereof lies; and

(*f*) Every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly respectively for the electoral district in which the municipality or any part thereof lies.

Certificate of Judge.

(2) The judge shall certify each of such copies and shall retain one and shall deliver or transmit by registered post, one copy to each of the persons mentioned in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of subsection 1.

When changes made by Judge.

22.—(1) If any complaint is made and allowed by the Judge, he shall immediately after the list has been finally revised, furnish to the Clerk a statement of the changes made by him in the list.

Copies of revised list to be delivered to certain persons.

(2) The Clerk shall thereupon prepare a sufficient number of copies of the list as revised by the Judge to furnish one copy for each of the persons mentioned in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of subsection 1 of section 21, and shall within one week after the revision has been made transmit or deliver such copies to the Judge.

Certificate of Judge on copies.

(3) The Judge shall thereupon sign and certify (Form 15) such copies and deal therewith in the manner provided by subsection 2 of section 21.

No. 109.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Voters' Lists Act.

1st Reading, 1st day of February, 1911.
2nd Reading, 8th day of February, 1911.

(Reprinted as amended in Committee of the Whole House.)

Mr. HOYLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 109. 1911.

BILL

An Act to amend The Voters' Lists Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Ontario Voters' Lists Act* is amended by adding thereto the following subsection:— 7 Edw. VII. c. 4, s. 17, amended.

(5) The clerk shall forthwith, after posting up the list of appeals in his office, deliver or transmit by post, by registered letter, or by parcel post registered, one copy of the list to each of the persons described in subsection 2 of section 9. Distribution of list of appeals.

2. Subsection 5 of section 14 of the said Act as enacted by subsection 2 of section 3 of *The Statute Law Amendment Act, 1908,* is amended by striking out the word "may" in the second line thereof and inserting in lieu thereof the word "shall." 7 Edw. VII. c. 4, s. 14, subs. 5, amended.

No. 109.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Voters' Lists Act.

1st Reading, 1st day of February, 1911.
2nd Reading, 8th day of February, 1911.

(*Reprinted as amended by the Legal Committee.*)

Mr. HOYLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 110. 1911.

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 95*a* of *The Consolidated Municipal Act 1903* is amended by adding the followig subsection: 3 Edw. VII., c. 19, s. 95a, amended.

By-laws for holding nomination on Wednesday before Christmas, and polling on January 1st.

(2) In cities having a population of over 50,000 inhabitants, the Council thereof may, by By-law to be passed not later than the 15th day of November in any year, enact that the meeting of electors for the nomination of candidates for the office of Mayor, Controllers, Aldermen and Board of Education, shall be held on the *Wednesday before* Christmas, and that the election of Mayor, Controllers, Aldermen and Board of Education in such municipality (except such members as have been previously elected) shall be held on the 1st day of January next thereafter, except where the 1st day of January falls on a Sunday, in which case the election shall be held on the following day, and the said By-law shall remain in force from year to year until the same is repealed.

2. Section 276*c* of *The Consolidated Municipal Act 1903*, is amended by adding thereto the following as subsection 1*a*: 3 Edw. VII., c. 19, s. 276c, amended.

By-law providing two years' term for Controllers.

(1*a*) The Council of any such city may on or before the first day of November in any year pass a By-law providing that the Controllers shall hold office for two years, and that at the next election after the passing of such By-law the two Controllers receiving the highest number of votes shall hold office for two years, and the remaining two Controllers elected shall hold office for one year, and thereafter two Controllers shall be annually elected to hold office for two years.

3. Section 630 of *The Consolidated Municipal Act, 1903*, is hereby amended by adding thereto the following subsection: 3 Edw. VII., c. 19, s. 630, amended.

Registration of plans of land situate within two miles of city over 50,000.

(3) No plan of any survey or sub-division of any land, situated within two miles of the limits of any City having a population of 50,000 or over, shall be registered as provided by *The Registry Act*, until such plan shall have been approved by the Council of such City. In the event of the said Council not approving of any such plan within fifteen days after a copy thereof has been served on the Clerk of the said City, the Judge of the County Court of the County in which said lands are situated may, after notice to the Council of the said City, make an order allowing the said plan to be filed.

No. 110

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

First Reading 1st day of Feb., 1911.

Mr. STUDHOLME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 111. 1911.

BILL

An Act to Prevent the Issuing of Watered Stock in Certain Companies.

HIS Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Stock to be paid for in full by subscribers.

1. Notwithstanding anything in *The Companies Act* contained, all shares in any company having for its object, or for one of its objects, the manufacture or supply of any commodity to be sold or disposed of to the public directly or indirectly, or any company to which Part XIII. of the said Act applies, shall be issued at their par value which shall be payable in cash by the persons to whom the same are issued, and every shareholder shall be liable for payment of each call made in respect thereof.

Proviso. Issue of paid-up stock for property.

Provided that this shall not prevent the issue of paid-up shares in payment for property or rights acquired by the company for the purpose of carrying out its objects of incorporation as stated in its charter or in supplementary letters patent, where the amount of the par value of the shares so issued does not exceed the fair value of the property or rights so acquired; and

Proviso. Issue of paid-up stock for services rendered.

Provided that this shall not prevent the issue of paid-up shares to any person for services rendered in the organization or promotion of the company, or in procuring subscriptions for stock or bonds or debentures of the company, where such issue is otherwise legal and the par value of the shares so issued does not exceed the fair cash value of the services so rendered.

Liability of shareholders to creditors.

2. The holder of shares issued at less than their par value in violation of section 1 shall be liable to the creditors of the company to the extent of the paid-up par value of such shares.

Penalty.

3. Every provisional director, director or official responsible for the issue of shares in violation of section 1 shall incur a penalty not exceeding $200 and not less than $50, to be recoverable under *The Ontario Summary Convictions Act*.

No. 111.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Prevent the Issuing of Watered Stock in Certain Companies.

First Reading 2nd day of Feb., 1911.

Mr. JOHNSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 112. 1911.

BILL

An Act to amend the Municipal Act.

HIS Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Section 95 of *The Consolidated Municipal Act, 1903*, is amended by striking out the words "first Monday" in the second line and substituting therefor the words "third Monday." 3 Edw. VII., c. 19, s. 95, amended. Date of polling.

(2) Section 118 of the said Act is amended by striking out the words "on the last Monday in the month of December," in the fourth and fifth lines, and inserting in lieu thereof "on the second Monday in January." S. 118 amended date of nomination.

(3) Section 119 of the said Act is amended by striking out the words "on the last Monday in December," in the fifth and sixth lines, and substituting therefor "on the second Monday in January." S. 119 amended date of nomination.

(4) Section 124 of the said Act is repealed. S. 124 repealed.

(5) Subsection 3 of section 128 of the said Act is amended by striking out the words "first Monday," in the fourth line, and inserting in lieu thereof "third Monday." S. 128, subs. 3, amended date of polling.

(6) Section 259 of the said Act is amended by striking out the words "second Monday," in the third line, and substituting therefor the words "fourth Monday," and by striking out the words "fourth Tuesday," in the seventh line, and substituting therefor the words "fourth Wednesday." S. 259 amended first meeting of councils.

(7) Subsection 6 of section 304 of the said Act is amended by striking out the words "15th day of December," in the second line, and substituting therefor the words "31st day of December," and by striking out the words "the portion of," in the fifth line, and the words "a similar statement in detail S. 304 (6) amended. Date of publication of statement of assets and liabilities.

respecting the last fifteen days of the preceding year shall be attached thereto," in the seventh, eighth and ninth lines.

S. 304 (7) amended.

Date of posting up statement.

(8) Subsection 7 of section 304 of the said Act is amended by striking out the words " 24th day of December," in the third line, and substituting therefor the words " 2nd day of January."

S. 304 (7) amended.

Delivery of copies of statement to electors.

(9) Subsection 8 of section 304 of the said Act is amended by striking out the words " 24th day of December," in the fourth line, and substituting therefor the words " 2nd day of January."

No. 112.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

First Reading 2nd day of Feb., 1911.

Mr. DONOVAN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 113. 1911

BILL

An Act to amend The Public Health Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 72 of *The Public Health Act* is amended by adding after the words "storing of hides or" in the eighth line thereof the following words: Rev. Stat., c. 248, s. 72, amended. Trades not to be established without consent of Council.

"storing of rags or storing of bones or."

No. 113.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Public Health Act.

1st Reading, 3rd Feb., 1911.

Mr. NICKLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 113. 1911

BILL

An Act to amend The Public Health Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Section 72*a* of *The Public Health Act*, as enacted by section 1 of chapter 32 of the Acts passed in the 5th year of His late Majesty's reign, is repealed, and the following substituted therefore:— Rev. Stat., c. 248, s. 72a, amended.

72*a*. No person shall keep or store any rags, bones or other refuse within the municipality, unless the same are kept or stored on premises approved of by the Medical Health Officer. Storing of rags, bones, etc.

No. 113.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Public Health Act.

1st Reading, 3rd Feb., 1911.

(*Reprinted as amended by The Municipal Committee.*)

Mr. NICKLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 114. 1911

BILL

An Act to amend The Public Schools Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

9 Ed. VII., c. 89, s. 61, subs. 4. amended.

1. Subsection 4 of section 61 of *The Public Schools Act* is amended by adding after the word "receiving" in the eigth line thereof the words "the nominations for office and" and by adding after the word "declarations" in the ninth line the words "of qualification and" and by adding to said subsection the words following "and in default of any candidate filing the declaration of qualification in the manner and within the time provided by section 129 of the said *Consolidated Municipal Act,* such candidate shall be deemed to have resigned, and his name shall be removed from the list of candidates and shall not be printed on the ballot papers."

Application of provisions of Municipal Act to school elections by ballot.

No. 114.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Public Schools Act.

First Reading 3rd day of Feb., 1911.

Mr. BRADBURN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 115. 1911

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 686 of *The Consolidated Municipal Act, 1903*, is hereby amended by inserting the word "oiling" after the word "watering" in the eighth line of subsection (1) and by inserting the word "oiled" after the word "watered" in the fourth line of subsection (2). 3 Edw. VII., c. 19, s. 686, amended. Oiling streets as a local improvement.

2. Section 540 of the said Act is amended by adding thereto the following as paragraphs 3 and 3*a*. 3 Edw. VII., c. 19, s. 540, amended.

3.—For licensing and requiring the registration of dogs and imposing a license fee on the owners, possessors or harbourers of dogs, with the right to impose a larger fee in the cases of bitches or for each additional dog or bitch where more than one is owned, possessed or harboured by any one person or in any one household and where such license is imposed and is equal to or exceeds the amount of the tax imposed by Chapter 271 of the Revised Statutes of Ontario, 1897, the provisions of sections 1, 3, 5 and 7 of said Act shall not apply to any city, town or village while such by-law remains in force, and it shall not be necessary to enter any particulars as dog taxes on the collector's roll. Licensing dogs.

3*a*.—For preventing the running at large of dogs. Dogs running at large.

3. Subsection 2 of said section 540 is amended by adding at the end thereof the words following "or those impounded under the provisions thereof." 3 Edw. VII., c. 19, s. 540 (2), amended, killing dogs.

4. Subsection (2) of section 118 of said Act is amended by inserting the word "city" after the word "any" in the first line of said subsection and the word "aldermen" be- 3 Edw. VII., c. 19, s. 118 (2) amended, place of nomination of Alder-

men in cities divided into wards.

tween the words "for" and "councillors" in the second line of said subsection.

3 Edw. VII., c. 19, s. 119, amended, meetings for nomination of Aldermen, etc.

5. Section 119 of said Act is amended by inserting between the words "and" and "at" in the ninth line thereof the words "unless otherwise provided by by-law passed under the provisions of subsection (2) of section 118.

3 Edw. VII., c. 19, s. 128 (1), amended, nomination by electors of ward.

6. Subsection (1) of section 128 of said Act is amended by inserting after the word " seriatim " in the second line the words " and in the case of cities and towns in which the aldermen or councillors or any of them are elected by wards by electors of the ward for which he is nominated."

3 Edw. VII., c. 19, s. 429, amended.

7. Section 429 of the said Act is amended by adding thereto the following as subsection (2*a*).

Signing of coupons.

2*a*.—Coupons attached to debentures issued by a city need not be signed by the Mayor, but shall be signed by the treasurer thereof or some other person authorized by law to sign the same.

3 Edw. VII., c. 19, s. 129, (3a), amended.

Declaration of qualification.

8. Subsection (3*a*) of section 129 of said Act, as amended by section 4 of Chapter 22 of the Acts passed in the 4th year of the reign of His late Majesty King Edward the Seventh, is further amended by adding after the words added by said amendment the words " Members of the Board of Education and High, Public and Separate School Trustees."

No. 115.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

1st Reading, 3rd Feb., 1911.

Mr. BRADBURN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 116. 1911.

BILL

An Act to protect Public Authorities from Vexatious Actions.

SHORT TITLE, s. 1.
INTERPRETATION, s. 2.
ACTIONS AGAINST JUSTICES OF THE PEACE, ss. 3-11.
- Where action shall lie, s. 3.
- Where allegation of malice and want of probable cause is required, s. 4 (1).
- Provision for case of conviction made by one justice, and warrant granted by another, s. 4 (2).
- No action till conviction or order quashed, s. 4 (3).
- No action where summons previously served and disobeyed, s. 4 (4).
- No action where justice acts under order of High Court, County or District Court Judge, s. 5.
- No action where conviction subsequently affirmed on appeal, s. 6.
- Protection not forfeited through informality, where justice acted in good faith, s. 7.
- Condition on quashing conviction, s. 8.
- Power of judge to set aside proceedings, s. 9.
- Nominal damages only in certain cases, s. 10.
- No action for certain mistakes as to jurisdiction, s. 11.

ACTIONS AGAINST CONSTABLES, s. 12.
ACTIONS AGAINST PUBLIC AUTHORITIES, ss. 13-15.
- When action to be brought, s. 13 (1).
- Scale of costs, s. 13 (2).
- Where no proper opportunity of tender afforded, s. 13 (3).
- Sheriff executing process, s. 13 (4).
- Persons acting under mandamus, s. 14.
- Persons acting under *ultra vires* statutes, s. 15.

SECURITY FOR COSTS, s. 16.
- In action against magistrates, or for acts done in execution of public duty, s. 16 (1).
- Procedure upon application, s. 16 (2).

APPLICATION OF ACT, s. 17.
REPEAL, s. 18.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Public Authorities Protection Act. New.*

Interpretation.

2. In this Act "Justice of the Peace" shall include a Police Magistrate, a person who is ex officio a justice of the peace, and a person who has by law the powers of a justice of the peace, either generally or with regard to any particular matter. *New.*

A Justice of the Peace not liable unless he acted maliciously and without reasonable and probable cause.

3. No action shall lie or be instituted against a justice of the peace for any act done by him in the execution of his duty as such justice with respect to any matter within his jurisdiction as such justice unless the act was done maliciously and without reasonable and probable cause. R.S.O. 1897, c. 88, s. 1.

Where an action may be maintained without showing malice, etc.

4.—(1) For any act done by a justice of the peace in a matter in which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or a warrant issued by him in such matter, any person injured thereby may maintain an action against the justice in the same case as he might have heretofore done, and it shall not be necessary to allege or prove that the act was done maliciously and without reasonable and probable cause. R.S.O. 1897, cap. 88, s. 2.

If one Justice makes a conviction, etc., and another grants a warrant, action must be against the former.

(2) Where a conviction or order has been made by a justice of the peace, and a warrant of distress or of commitment has been issued thereon by some other justice of the peace, *bona fide* and without collusion, no action shall be brought against the justice who issued the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice who made the same, but the action, if any, shall be brought against the justice who made the conviction or order. R.S.O. 1897, c. 88, s. 3.

No action for anything done under a conviction or order until the same is quashed.

(3) No such action as is mentioned in this section shall be brought for anything done under a conviction or order or under a warrant issued by a justice of the peace to procure the appearance of the party, which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed. R.S.O. 1897, c. 88, s. 4.

No action for anything done under a warrant to compel appearance, if a summons previously served and not obeyed.

(4) Where such warrant has not been followed by a conviction or order, or is a warrant upon an information for an indictable offence, if a summons was issued previously to the warrant, and the summons was served upon such party, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of the summons, no such action shall be maintained against the justice for anything done under the warrant. R.S.O. 1897, c. 88, s. 5.

If a Justice refuses to do any act, the High Court or the County Judge may

5. Where a justice of the peace refuses to do any act relating to the duties of his office as such justice, the person requiring the act to be done may, upon affidavit stating the facts, and upon six day's notice to the justice, and also to the

party to be affected by the act, apply to the High Court, or a judge thereof, or to the judge of the County or District Court of the county or district in which the justice resides, for an order directing the act to be done; and the court or judge may make such order upon such terms as to costs as may be deemed proper, and the justice, upon being served with the order, shall obey the same, and shall do the act required; and no action or proceeding shall be commenced or prosecuted against him for having obeyed the order and done the act required. R.S.O. 1897, c. 88, s. 6.

order him to do it, and no action shall then lie against him for doing it.

6. Where a justice of the peace has issued a warrant of distress or a warrant of commitment upon a conviction or order which, either before or after the issuing of the warrant has been confirmed upon appeal, no action shall be brought against the justice by reason of any defect in the conviction or order for anything done under the warrant. R.S.O. 1897, c. 88, s. 7.

After conviction, etc., confirmed on appeal, no action to lie for an act done under a warrant.

7. (1) No defect in an information taken before or in a warrant issued by a justice of the peace, shall prevent him from claiming the benefit and protection of this Act if the court is of opinion that he acted in good faith, and that the informant or complainant intended, by the facts stated to the justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the justice; and in such case the informant or complainant shall be liable, as if the information had charged in proper form the commission of the offence so intended to be charged. R.S.O. 1897, c. 88, s. 9.

Defects in informations or warrants not to prevent Justices from claiming protection hereunder.

(2) A person who has in good faith intended to charge another person, who has been arrested by the direction of the person so charging the offence, under a warrant issued by a justice of the peace, with the commission of the offence, shall not be liable to be sued, in consequence only of the information sworn before a justice of the peace, or the warrant issued by him not containing a proper description of the offence. R.S.O. 1897, c. 88, s. 10.

Actions when information does not contain a proper description of the offence.

8. Where an order is made quashing a summary conviction the court may provide that no action shall be brought against the justice of the peace who made the conviction. R.S.O. 1897, c. 88, s. 11.

Condition on quashing convictions.

9. If an action is brought where by this Act it is enacted that no action shall be brought under the particular circumstances, a judge of the court in which the action is pending may set aside the proceedings in the action. R.S.O. 1897, c. 88, s. 12.

If any action is brought contrary to this Act, Judge may set aside the proceedings.

Damages nominal in certain cases. Imp. Act, 11 & 12. V. c. 44, s. 13.

10. Where the plaintiff is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of three cents as damages for the imprisonment, or any costs of suit, if it is proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and with respect to the imprisonment that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. R.S.O. 1897, c. 88, s. 20. *Amended.*

Action not to lie against Police Magistrates, etc., for certain mistakes in jurisdiction.

11.—(1) No action shall lie against a police magistrate for or by reason of any process issued, or conviction made by, o any proceeding taken before him alone, or authorized by him, in good faith, in any case which was not cognizable by such police magistrate, or not by him sitting alone, or which should have been heard by two justices of the peace, or by the mayor of a city or town within the district, county, or part of a district or county, for which the police magistrate was appointed.

(2) This section shall not prevent an action from being maintained where and so far as the action would be maintainable against the mayor or justices of the peace if the process had been issued or conviction made by, or proceeding taken before, or authority given by him or them, in a matter in which he or they had jurisdiction.

(3) No action shall lie against a constable or peace officer for anything done by him under and by virtue of process issued or authority given, as in subsection 1 mentioned, unless the action would be maintainable if the process had been issued or authority given by a person or persons legally qualified to issue the process or give the authority. R.S.O. 1897, c. 88, s. 24.

ACTION AGAINST CONSTABLE—DEMAND OF PERUSAL AND COPY OF WARRANT.

Action not to be brought against a constable acting under a justice's warrant until

12.—(1) No action shall be brought against a constable or other officer or against any person acting by his order and in his aid for anything done in obedience to a warrant issued by a justice of the peace until demand has been made or left at his usual place of abode by the person intending to

bring such action or by his solicitor or agent in writing signed by the person demanding the same, of the perusal and copy of such warrant and the same has been refused and neglected for six days after such demand.

demand of perusal and copy of the warrant refused. 24 Geo. II., c. 44, s. 6.

(2) If after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same an action is brought against such constable or officer or such person so acting for any such cause without making the justice who issued the warrant a defendant on producing and proving the warrant at the trial of the action judgment shall be given for the defendant notwithstanding any defect of jurisdiction in such justice.

(3) If the action is brought jointly against such justice and such constable or other officer or person so acting on proof of such warrant judgment shall be given for such constable or other officer and for such person so acting notwithstanding such defect in jurisdiction.

(4) If the judgment is given against the justice the plaintiff shall recover costs against him, including such costs as the plaintiff is liable to pay to such defendant for whom judgment is given. R.S.O. 1897, c. 326.

ACTIONS AGAINST PUBLIC AUTHORITIES.

13.—(1) No action, prosecution or other proceeding shall lie or be instituted against any person for an act done in pursuance or execution or intended execution of any statute or of any public duty or authority or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in case of continuance of injury or damage, within six months after the ceasing thereof.

An action against a person for any act done under public authority to be begun within six months. Imp. Act, 56 & 57 Vict. c. 61, s. 1

(2) Where in any such action costs are awarded to the defendant the court may direct that they be taxed as between solicitor and client.

(3) If in the opinion of the court the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding the court may award to the defendant costs to be taxed as between solicitor and client. Imp. Act. 56 and 57 V., c. 61, s. 1. *Amended.*

(4) A sheriff, acting under a writ of execution or other process, shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this section. 62 V. (2), c. 7, s. 3.

Persons obeying writ of mandamus protected.

14. No action or other proceeding shall be commenced or prosecuted against any person, for or by reason of anything done in obedience to a *mandamus* or mandatory order. R.S.O. 1897, c. 88, s. 23.

Protection to those acting under ultra vires statutes.

15.—(1) No action shall be brought against any judge, justice of the peace, or officer for any thing done by him under the supposed authority of a statute of Ontario or of the Dominion of Canada, which was beyond the legislative jurisdiction of the Legislature of Ontario or of the Parliament of Canada, as the case may be, if the action would not lie against him, had the statute been within the legislative jurisdiction of the Legislature or Parliament, which assumed to enact the same.

Cases wherein above does not prevent action.

(2) Where, notwithstanding the provisions of subsection 1 an action is maintainable against a judge, justice of the peace, or officer, for any thing done by him under the authority of such a statute, the action shall only be maintainable subject to the like provisions as the action would be subject to if the statute was valid; and the like damages, and no more, shall be recoverable in such action as under the like circumstances could have been recovered if the statute had been valid. R.S.O. 1897, c. 88, s. 8.

SECURITY FOR COSTS.

Applications for security for costs in actions against Magistrates

16.—(1) Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any statute or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, the defendant may at any time after the service of the writ, apply for security for costs. R.S.O. 1897, c. 89, s. 1. *Amended.*

Procedure upon application.

(2) The application shall be upon notice and an affidavit of the defendant or his agent, showing the nature of the action and of the defence, and showing to the satisfaction of the court or judge that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment should be given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous; and thereupon the court or judge may make an order that the plaintiff shall give security for the costs to be incurred in such action. R.S.O. 1897, c. 89, s. 2.

APPLICATION OF ACT.

17. This act shall not apply to a municipal corporation. *New.* Application of act.

REPEAL.

18. Chapters 88, 89 and 326 of the Revised Statutes of Ontario, 1897, and section 3 of chapter 7 of the Acts passed in the second session held in the 62nd year of the reign of Her late Majesty Queen Victoria, and section 10 of chapter 12 of the Acts passed in the 1st year of the reign of His late Majesty King Edward VII. are repealed. Repeal.

No. 116.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Protect Public Authorities from Vexatious Actions.

Mr. Fox.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 117. 1911.

BILL

An Act respecting Circuses and Travelling Shows.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Travelling Shows Act* *New.* Short title.

2. No menagerie, circus, wild west show, trained animal show, or show of any kind whatsoever, shall be exhibited at any place in Ontario unless the owner, proprietor, manager, agent or person in charge of such show first obtains a license for that purpose from the Treasurer of Ontario. 3 Edw. VII. c. 28, s. 1. Circuses, etc., not to be exhibited without a license.

3. Every applicant for a license shall make and file in the office of the Treasurer a statutory declaration setting forth the number of days upon which the show is to be exhibited in Ontario and the localities in which the performances or exhibitions are to be held, and for such license shall pay in advance to the Treasurer the sums following, for every day upon which the show is to be exhibited in Ontario:— License fee.

For every circus, menagerie, wild west show and not more than one side show, if travelling with over twenty cars	$100.00
With twenty cars or less	50.00
For every trained animal show	15.00
For each additional side show	10.00

And for every other show such sum as may be determined by the Treasurer for every day upon which the show is licensed to be exhibited. 3 Edw. VII. c. 28, s. 2; 5 Edw. VII. c. 29, s. 1.

License fee for certain shows to be fixed by Provincial Treasurer.

4. If any such show is exhibited as part of an Industrial Exhibition or Agricultural Fair the applicant shall pay such license fee as the Treasurer may impose, but not in excess of the fees fixed by section 3 for the particular class of show, and the Treasurer may have regard to any special circumstances of the case and may if he deems it advisable impose a nominal fee. 3 Edw. VII. c. 28, s. 3.

Power to issue and revoke license.

5.—(1) Upon receiving the statutory declaration hereinbefore mentioned and upon payment of the license fee, the Treasurer may, in his discretion, issue a license and may at any time revoke the same upon being satisfied that the show is made the occasion for violation of the law or that gambling or any game of chance has been carried on in connection therewith.

(2) In case of the revocation of a license, the amount received for the same shall be refunded to the licensee, less the sum paid per day for every day during which exhibitions have been given under such license prior to the revocation thereof. 3 Edw. VII. c. 28, s. 4.

Penalty for unlicensed exhibitions.

6. Any person in charge of a show, or the owner, proprietor, manager or person having control thereof who exhibits the same or any part thereof, without obtaining a license shall incur a penalty of not less than $200, and not more than $300, for every day upon which such show or any part thereof has been exhibited at any place in Ontario. 3 Edw. VII. c. 28, s. 5.

License, when Municipal Corporation to issue.

7. No Municipal Corporation shall issue a license to any show to which section 2 applies until the applicant produces a license from the Treasurer of Ontario authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of a license in violation of the provisions of this section shall incur a penalty of $20. 3 Edw. VII. c. 28, s. 7.

Provincial and Dominion detectives and constables to have free access to all shows.

8.—(1) The Inspectors of Criminal Investigation of Canada and of Ontario, and every Dominion and Provincial constable receiving a salary from the Government shall have access free of all charge to all shows mentioned in section 2, and to every horse race, agricultural, horticultural or industrial exhibition, ball game, theatre or public gathering, and to the grounds, tents and buildings in which such shows, races, exhibitions and gatherings are held, and every part thereof, during the hours in which the public are admitted thereto, and any person hindering, preventing or refusing such free access after any such officer has demanded admission

and displayed his badge of office, shall incur a penalty not exceeding $100, and not less than $50, or in the discretion of the convicting magistrate may be imprisoned for any term not exceeding three months. 9 Edw. VII. c. 26, s. 36. Penalty.

9. The penalties imposed by this Act shall be recovered under *The Ontario Summary Convictions Act.* 3 Edw. VII. c. 28, s. 9. *Part.* Prosecutions. 10. Edw. VII., c. 37.

10. All penalties recovered under this Act, and all fees paid for licenses under the provisions of this Act, shall be paid over to the Treasurer of the Province of Ontario for the use of the Province. 3 Edw. VII. c. 28, s. 9. *Part.* Fees and penalties to be paid to treasurer.

11. The license fees payable under this Act shall be in addition to any fees imposed by municipalities. 3 Edw. VII. c. 28, s. 10. License fees to be in addition to fees of municipalities.

12. Chapter 28 of the Acts passed in the seventh year of the reign of His late Majesty King Edward VII., are repealed. Repeal.

No. 117.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Circuses and Travelling Shows.

First Reading.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 117. 1911.

BILL

An Act respecting Circuses and Travelling Shows.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Travelling Shows Act*. *New.*

Circuses, etc., not to be exhibited without a license.

2. No menagerie, circus, wild west show, trained animal show, or show of any kind whatsoever, shall be exhibited at any place in Ontario unless the owner, proprietor, manager, agent or person in charge of such show first obtains a license for that purpose from the Treasurer of Ontario. 3 Edw. VII. c. 28, s. 1.

License fee.

3. Every applicant for a license shall make and file in the office of the Treasurer a statutory declaration setting forth the number of days upon which the show is to be exhibited in Ontario and the localities in which the performances or exhibitions are to be held, and for such license shall pay in advance to the Treasurer the sums following, for every day upon which the show is to be exhibited in Ontario:—

For every circus, menagerie, wild west show and not more than one side show, if travelling with over twenty cars	$100.00
With twenty cars or less	50.00
For every trained animal show	15.00
For each additional side show	10.00

And for every other show such sum as may be determined by the Treasurer for every day upon which the show is licensed to be exhibited. 3 Edw. VII. c. 28, s. 2; 5 Edw. VII. c. 29, s. 1.

License fee for certain shows to be fixed by Provincial Treasurer.

4. If any such show is exhibited as part of an Industrial Exhibition or Agricultural Fair the applicant shall pay such license fee as the Treasurer may impose, but not in excess of the fees fixed by section 3 for the particular class of show, and the Treasurer may have regard to any special circumstances of the case and may if he deems it advisable impose a nominal fee. 3 Edw. VII. c. 28, s. 3.

Power to issue and revoke license.

5.—(1) Upon receiving the statutory declaration hereinbefore mentioned and upon payment of the license fee, the Treasurer may, in his discretion, issue a license and may at any time revoke the same upon being satisfied that the show is made the occasion for violation of the law or that gambling or any game of chance has been carried on in connection therewith.

(2) In case of the revocation of a license, the amount received for the same shall be refunded to the licensee, less the sum paid per day for every day during which exhibitions have been given under such license prior to the revocation thereof. 3 Edw. VII. c. 28, s. 4.

Penalty for unlicensed exhibitions.

6. Any person in charge of a show, or the owner, proprietor, manager or person having control thereof who exhibits the same or any part thereof, without obtaining a license shall incur a penalty of not less than $200, and not more than $300, for every day upon which such show or any part thereof has been exhibited at any place in Ontario. 3 Edw. VII. c. 28, s. 5.

License, when Municipal Corporation to issue.

7. No Municipal Corporation shall issue a license to any show to which section 2 applies until the applicant produces a license from the Treasurer of Ontario authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of a license in violation of the provisions of this section shall incur a penalty of $20. 3 Edw. VII. c. 28, s. 7.

Provincial and Dominion detectives and constables to have free access to all shows.

8.—(1) The members of the Provincial Police Force and the members of the Dominion Police Force shall have access free of all charge to all shows mentioned in section 2, and to every horse race, agricultural, horticultural or industrial exhibition, ball game, theatre or public gathering, and to the grounds, tents and buildings in which such shows, races, exhibitions and gatherings are held, and every part thereof, during the hours in which the public are admitted thereto, and any person hindering, preventing or refusing such free access after any such officer has demanded admission and displayed his badge of office, shall incur a penalty not

exceeding $100, and not less than $50, or in the discretion of the convicting magistrate may be imprisoned for any term not exceeding three months. 9 Edw. VII. c. 26, s. 36. Penalty.

9. The penalties imposed by this Act shall be recovered under *The Ontario Summary Convictions Act.* 3 Edw. VII. c. 28, s. 9. *Part.* Prosecutions. 10. Edw. VII., c. 37.

10. All penalties recovered under this Act, and all fees paid for licenses under the provisions of this Act, shall be paid over to the Treasurer of the Province of Ontario for the use of the Province. 3 Edw. VII. c. 28, s. 9. *Part.* Fees and penalties to be paid to treasurer.

11. The license fees payable under this Act shall be in addition to any fees imposed by municipalities. 3 Edw. VII. c. 28. s. 10. License fees to be in addition to fees of municipalities.

12. ☞The Act passed in the 3rd year of the reign of His late Majesty King Edward VII., chaptered 28, and the Act passed in the 5th year of the said reign, chaptered 29, and section 36 of *The Statute Law Amendment Act, 1909*, are repealed.☜ Repeal.

No. 117.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Circuses and Travelling Shows.

1st Reading, 20th February, 1911.
2nd Reading, 21st February, 1911.

(*Reprinted as amended by Committee of the Whole House.*)

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 118. 1911

BILL

An Act to amend The Division Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 62 of *The Division Courts Act* is repealed and the following substituted therefor: 10 Edw. VII. c. 32, s. 62, repealed.

62. (1) Save as otherwise provided by this Act, the Court shall have jurisdiction in Jurisdiction.

(*a*) A personal action where the amount claimed does not exceed $200; Personal action.

(*b*) A personal action if all the parties consent thereto in writing, and the amount claimed does not exceed $400; Personal action where parties consent.

(*c*) An action for a claim or demand of debt account or breach of contract or covenant or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed $400; Debt and contract.

(*d*) An action for the recovery of a debt or money demand, where the amount claimed, exclusive of interest, whether the interest is payable by contract or as damages, does not exceed $600 and the amount claimed is Claim ascertained by signature of defendant.

(1) Ascertained by the signature of the defendant or of the person whom as executor or administrator he represents, or

(2) The balance of an account not exceeding $600, which amount is so ascertained;

When amount to be deemed so ascertained.

An account shall not be deemed to be so ascertained where it is necessary for the plaintiff to give other and exclusive evidence beyond the production of a document and proof of the signature to it;

Application to absconding debtors.

The jurisdiction conferred by this clause shall apply to claims and proceedings against an absconding debtor;

Creditor's claim to rank on insolvent estate.

(*e*) An action or contestation for the determination of the right of a creditor to rank upon an insolvent estate where the claim of the creditor does not exceed $200.

Combined claims.

(2) Claims combining—

What may be combined.

(*a*) Causes of action in respect of which the jurisdiction is by the foregoing subsection of this section limited to $200, hereinafter referred to as class (*a*);

(*b*) Causes of action in respect of which the jurisdiction is by the said subsection limited to $400, hereinafter referred to as class (*b*);

(*c*) Causes of action in respect of which the jurisdiction is by the said subsection limited to $400, hereinafter referred to as class (*c*);

Proviso.

may be joined in one action; provided that the whole amount claimed in respect of class (*a*) does not exceed $200; and that the whole amount claimed in respect of classes (*a*) and (*b*) combined, or in respect of class (*b*), where no claim is made in respect of class (*a*), does not exceed $400, and that the whole amount claimed in respect of classes (*a*) and (*c*) or (*b*) and (*c*) combined, does not exceed $400, and that in respect of classes (*b*) and (*c*) combined, the whole amount claimed in respect of class (*b*) does not exceed $400.

Findings to be separate.

(3) The findings of the Court upon claims so joined shall be separate.

(4) The court shall also have jurisdiction in actions of replevin, where the value of the goods or other property or effects distrained, taken or detained, does not exceed $200, as provided in *The Replevin Act*. R.S.O. 1897, c. 60, s. 72. Replevin.

(5) The Court shall also have jurisdiction in actions between teachers and school boards as provided by *The High School Act, The Public Schools Act,* and *The Separate Schools Act.* Disputes between teachers and boards.

No. 118.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL

An Act to amend The Division Courts Act.

First Reading, 7th February, 1911.

Mr. INNES

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 119. 1911

BILL

An Act to amend the Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 53 of *The Assessment Act* is amended by adding after the word "cities" in the 17th line the words "and towns." 4 Edw. VII. c. 23, s 53 (1), amended. Time for making assessment.

2. Subsection 2 of section 103 of *The Assessment Act* is amended by adding the following as paragraph 4: 4 Edw. VII. c. 23, s. 103 (2), amended.

Distress on goods and chattels sold by person taxed.

4. Upon goods and chattels which were the property and were in the possession or on the premises of the person taxed at the time of making the assessment, but which have since been given, sold, assigned or transferred by him to some other person in possession of such premises or to some person through whom the person in possession claims, and still are the property of some person in possession of such premises, wherever such goods and chattels are found in the county in which the municipality is situate for judicial purposes.

No. 119.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL

An Act to amend The Assessment Act.

First Reading, 7th February, 1911.

Mr. LACKNER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 120. 1911

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection (3) of section 129 of *The Consolidated Municipal Act, 1903*, as amended by section 4 of *The Municipal Law Amendment Act, 1904*, is further amended by striking out the words "in cities, towns and incorporated villages" in the first line, and substituting therefor the words "in all municipalities." 3 Edw. VII. c. 19, s. 129 (3), amended, filing of declaration of qualification by candidates.

No. 120.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL

An Act to amend The Municipal Act.

First Reading, 7th February, 1911.

Mr. THOMPSON
(Simcoe).

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 122. 1911.

BILL

An Act to amend The Ontario Factories Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Certain laundries to be deemed factories.

1. Every shop, building or room in which one or more persons are employed in doing public laundry work by way of trade or for the purpose of gain shall be deemed a factory within the meaning of *The Ontario Factories Act,* and shall be subject to the visitation and inspection of the Factory Inspectors in the same manner as any other factory, and the penalties provided for by that Act shall apply to contraventions of the provisions of this Act.

Laundry work not to be done in sleeping or living room.

2. No such public laundry work shall be done in a room used for a sleeping or living room.

Laundry to be kept clean.

3. Every such laundry shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature.

Act not to apply to certain laundresses.

4. This Act shall not apply to a female engaged in doing custom laundry work at her home for a regular family trade.

No. 122.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Factories Act.

1st Reading, 8th day of Feb., 1911.

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 123. 1911.

BILL

An Act respecting the Toronto General Hospital.

HIS Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Short title.

1. This Act may be cited as *The Toronto General Hospital Act, 1911.*

Agreement with University confirmed.

2. The agreement between the Governors of the University of Toronto and the Trustees of the Toronto General Hospital, a copy of which is set out in Schedule 1, is hereby declared to be valid and binding on the parties to it and they are hereby respectively authorized and required to carry out and observe the provisions and agreements on their part which it contains.

By-law as to medical staff confirmed.

3. The by-law, a copy of which is annexed to the agreement and set out in Schedule 1, is hereby declared to be a valid by-law of the Trustees of the Toronto General Hospital.

Lieutenant-Governor in Council may guarantee debentures.

4. The Lieutenant-Governor in Council may for, and in the name of the Province of Ontario, guarantee the payment of the debentures mentioned in paragraph 7 of the agreement, and may prescribe the form of the guaranty and name the officer by whom it is to be executed, and when executed in the form and manner prescribed, the guaranty shall be binding on the Province.

By-law 5454 of Toronto making grants confirmed.

5. By-law Number 5454, intituled a by-law for the issue of "City of Toronto General Consolidated Loan Debentures to the amount of $250,000 to make a grant to the Toronto General Hospital, and for the acquiring lands to extend Christopher Street," passed by the Council of the Corpora-

tion of the City of Toronto, on the 25th day of April, 1910, a copy of which is set out in Schedule 2, is hereby declared to be a valid by-law, and the same is hereby confirmed and the debentures to be issued thereunder are hereby declared to be valid and binding on the corporation and the ratepayers of the City of Toronto.

SCHEDULE 1.

Agreement made the first day of December, 1910.

BETWEEN

The Governors of the University of Toronto, hereinafter called the University,

—and—

The Trustees of the Toronto General Hospital, hereinafter called the Trustees;

Whereas the Trustees have determined to erect a new hospital on the block of land fronting on Avenue Street, recently acquired by them, and the University has contributed $300,000 towards the cost of acquiring the land and erecting the hospital;

And whereas the Trustees have been unable to raise at present the amount necessary to pay for the land and erect and equip the hospital and have applied to the University for a further contribution of $300,000;

And whereas the University has agreed to give such further contribution of $300,000 on the terms and conditions hereinafter mentioned;

Now this agreement witnesseth that it is agreed by and between the parties hereto in manner following:

1. The University shall pay to the Trustees the said sum of $300,000 by issuing its debentures or bonds payable in forty consecutive equal annual sums of such amount as will be sufficient to pay the principal sum and interest at the rate of four per cent. per annum in such forty equal annual instalments.

2. The debentures or bonds shall bear date the first day of January, 1911, and the interest shall be computed from that date, and the first of the annual payments shall be made in one year therefrom.

3. The debentures or bonds shall be unconditional and in the hands of a purchaser for value shall not be affected by any breach that may happen on the part of the Trustees in the performance of the covenants on their part herein contained, or any of them.

4. The Trustees shall complete the erection and equipment of the new hospital in accordance with the plans which have been approved by the Trustees, within five years from the date hereof.

5. The Trustees shall forthwith convey to the University the south-west part of the block of land hereinbefore mentioned, having a frontage of two hundred and twenty feet on University Street by a depth of one hundred and forty feet on Christopher Street, for the purpose of the University erecting thereon buildings for the use and accommodation of its Departments of Pathology, Bacteriology and Pathological Chemistry and of any other Department of its Medical Faculty.

6. The University shall erect on the lands mentioned in paragraph 5, in time for use when the hospital is completed, buildings for the accommodation of its Departments of Pathology, Bacteriology and Pathological Chemistry, and shall expend in so doing at least $100,000.

7. The money requisite for the erection and equipment of the buildings mentioned in paragraph 6, not exceeding $130,000, shall be provided by the Trustees upon three months' notice being given to them by the University stating the sum required, and shall be repaid by the University by the issue of its debentures guaranteed by the Province of Ontario in like manner and with the like interest as is provided with regard to the contribution of $300,000, and the provisions of paragraph 3 shall apply to the debentures or bonds to be issued by the University for the repayment of the money so provided.

8. In the event of the University desiring at any time to discontinue the use of the said lands and the buildings which may be erected thereon for the purposes mentioned in paragraph 5, the University shall be entitled to use them for any educational purpose of the University or of any University or College now or hereafter federated with the University or of University College or the University at its option may require the Trustees to purchase the land and buildings at the now value of the land, which it is agreed is the sum of $38,500, and the value to the Trustees for the purpose of or connected with the hospital of the buildings, such value to be determined in case of a difference between the parties as to it by arbitration.

In order to settle differences of opinion which have arisen as to the rights of the University as to clinical instruction in the hospital and the use of the hospital and the patients thereof, including outdoor patients, for the purposes of such instruction it is further agreed by and between the parties thereto:

9. Four of the Governors of the University appointed by the Governors and four of the Trustees of the hospital to be appointed by the Trustees of the hospital shall constitute a joint Hospital Relations Committee of the two contracting parties for the purposes hereinafter mentioned:

10. The Trustees shall forthwith pass the By-law, a draft of which is hereto annexed, and shall procure such By-law to be approved by the Lieutenant-Governor in Council in accordance with the provisions of the Act relating to the hospital passed in the year 1906, 6 Edward VII., c. 59, s. 17, as amended in 1908, 8 Edward VII., c. 33, s. 60.

11. No change in such By-law shall be made without the consent in writing of the University, unless at least one month's notice in writing of the proposed change shall have been first given to the University.

12. Subject to the provisions of paragraph 14, the head professor or other head in the Faculty of Medicine of the University of Toronto, of the Departments of Medicine, Surgery, Obstetrics,

Gynaecology, Ophthalmology and Laryngology shall each be entitled ex officio to a regular service in the hospital (including out-door patients) and shall be appointed by the Trustees upon their hospital staff and be provided with such service, but the provisions of this paragraph are not to be deemed to confer any right or privilege on any such head professor or other head which shall be enforceable by him, but such provision shall be enforceable only by the University.

13. If the Trustees are of opinion that any person entitled ex officio to a service under paragraph 12 ought not to be entrusted with a service they shall be entitled to notify the University of their objection and such notice shall be given in writing to the University at least three months before the time for making the annual appointments and if it is given and the University does not agree to give effect to the objection it shall be referred to the Lieutenant-Governor in Council for decision.

14. In the event of the objection prevailing either by the University assenting to it, or by the decision of the Lieutenant-Governor in Council, or in the event of the person entitled ex officio to a service being disqualified under the provisions of the by-laws of the Trustees for appointment, the position shall be filled in the manner hereinafter provided by paragraph 15 for making the appointments of the other members of the Hospital Staff.

15. All appointments to positions on the Hospital Staff other than those mentioned in paragraph 12 shall be made by the Trustees only on the nomination of the Joint Committee or a majority thereof, and if the Joint Committee is unable to agree upon a nomination for any such appointment, the nomination shall be made by the President of the University and the Chairman of the Trustees, or if they do not agree, by them and some third person appointed by them, or a majority of them.

16. The provisions of paragraphs 9 to 15 inclusive and of paragraph 19 shall take effect on the execution of this Agreement, but not so as to interfere with any appointment made for the current year.

17. Except as provided by paragraph 16, this Agreement shall not take effect unless and until the By-law mentioned in paragraph 10 shall have been passed by the Trustees and approved by the Lieutenant-Governor in Council.

18. In the event of other Departments than those mentioned in paragraph 12 being hereafter established in the Medical Faculty of the University and the University being of opinion that services should be provided for such Departments the University shall be entitled to require the Trustees to pass the necessary By-law to re-arrange the services so as to provide services for such Departments, and if the Trustees object to do so, the matter in dispute shall be referred to the Joint Committee for decision and in the event of the Committee being unable to agree as to whether such re-arrangement should be made, the matter shall be referred to a Medical Expert residing out of Ontario to be agreed on by the University and the Trustees, or if they are unable to agree as to the Medical Expert, he shall be named by the Lieutenant-Governor in Council, and his decision shall be final and shall be given effect to by the passing by the Trustees of the necessary By-law and the transmission of the same to the Provincial Secretary for the approval of the Lieutenant-Governor in Council, but nothing in this paragraph shall entitle the University to require the Trustees to incur any additional expenditure for new buildings or the equipment of them.

19. If either party so desires, the Trustees shall obtain legislation confirming this Agreement.

In witness whereof the parties hereto have caused to be hereunto affixed their respective Corporate Seals.

Signed, sealed and delivered in presence of

(Signed) A. M. GALL.

(Signed) B. E. WALKER,
Chairman.
(L.S.)
(Signed) F. A. MOURE,
Bursar.

(Signed) W. T. WHITE.

(Signed) J. W. FLAVELLE,
Chairman.
(L.S.)
(Signed) A. F. MILLER,
Secretary.

BY-LAW RESPECTING THE MEDICAL STAFF OF THE HOSPITAL.

Be it enacted by the Trustees of the Toronto General Hospital:

1. In making appointments to the Visiting Staff regard shall be had to the Agreement between the Governors of the University of Toronto and the Trustees, dated the first day of December, 1910, to the previous training and record of the applicant, his capacity to render service to the sick in the hospital, his scientific attainments, his teaching capacity and the promise he gives for future work.

2. All appointments shall be made annually at the regular meeting of the Board in the month of April.

3. There shall be no remuneration to members of the Visiting Staff.

4. In making appointments to the Staff sex shall be no bar.

5. The members of the Visiting Staff shall not be allowed to serve on the Staff of any other General Hospital.

6. The following shall be the services in the several Departments of the Hospital:

In Medicine (including Dermatology and Neurology) three co-ordinate services;

In Surgery, four co-ordinate services;

In Obstetrics, one service;

In Gynaecology, one service;

In Ophthalmology, one service;

In Otology, Rhinology and Laryngology, one service.

7. Each of the services in the several Departments shall be under a head with such associates and assistants as may be found necessary.

8. The several services in all Departments shall be so organized as to include both indoor and outdoor patients and the heads of such services shall be responsible for the treatment of all such patients.

9. The Heads in Surgery shall retire from their position at the age of 55, and the Heads in Medicine at the age of 60 years. If the Board of Trustees and the University so agree, the age limit may be extended to 60 years in the case of Surgeons and to 65 years in the case of Physicians. If the Board and the University fail to agree to any such extension, either party may refer the matter to the Lieutenant-Governor in Council for decision. The age limit for Surgeons shall apply to the Heads in the Departments of Obstetrics, Gynaecology, Ophthalmology, Otology, Rhinology and Laryngology.

10. The Heads in Medicine shall not engage in general practice but shall confine their work outside of the Hospital to consultation.

11. The Heads in Surgery shall practise Surgery only; but this provision shall not apply to the present head professor of Surgery in the Faculty of Medicine of the University of Toronto.

12. The Head of the service in Obstetrics shall practise Obstetrics and Pediatrics only.

13. The Head of the service in Gynaecology shall confine his work in the hospital to Gynaecology only but may outside engage in Surgery but not in general practice.

14. The Head of the service in Ophthalmology shall confine his work in the hospital to Ophthalmology but may outside practise the three other specialties of Otology, Rhinology and Laryngology.

15. The Head of the service in Otology, Rhinology and Laryngology shall confine his work in the hospital to the specialties, but may outside practise Ophthalmology.

16. There shall be a Department of Pathology and Bacteriology and a Department of Pathological Chemistry. These two Departments shall be in charge of Professors of the University.

17. The Department of Anaesthetics shall be under the supervision of one Head.

18. All public ward patients shall be entered under the care of heads of services and shall be available for the clinical instruction of students of the Medical Faculty of the University of Toronto.

19. Members of the Medical Profession who are not on the Staff of the Hospital shall have the privilege of attending patients in the private, semi-private and semi-public wards.

20. There shall be a Medical Board the work of which shall be advisory only, which shall consist of the Heads of the various services.

21. Seniors who, by reason of the age limit, are required to sever their connection with the Active Staff, may be given positions on the Consulting Staff.

Passed the twenty-fifth day of January, 1911.

(Signed) J. W. FLAVELLE,
Chairman.
(L.S.)

(Signed) A. F. MILLER,
Secretary.

SCHEDULE 2.

No. 5454. A By-law

To provide for the issue of "City of Toronto General Consolidated Loan Debentures" to the amount of $250,000, to make a grant to the Toronto General Hospital, and for acquiring lands to extend Christopher Street.

(Passed April 25th, 1910.)

Whereas in the opinion of this Council it is desirable to make a grant to the Toronto General Hospital to the amount of $200,000 and to raise $50,000 for the purpose of extending Christopher Street to Elizabeth Street;

And whereas by an Act passed by the Legislature of the Province of Ontario in the fifty-second year of the reign of Her late Majesty Queen Victoria, and chaptered 74, entitled "An Act respecting the Consolidation of the Debenture Debt of the City of Toronto," as amended by an Act passed in the fifty-eighth year of Her said reign, and chaptered 89, it is amongst other things enacted that the Corporation of the City of Toronto may pass By-laws for authorizing the issue of debentures of the said City to an amount not exceeding in the whole twelve and one-half per centum of the assessed value of the whole of the rateable property in the City up to the first one hundred millions thereof, and eight per cent. of the assessed value of said property beyond the said sum of one hundred millions, as established and shewn from time to time by the last revised assessment rolls of the said City, said debentures to bear interest at a rate not exceeding four per cent. per annum;

And whereas the amount of the whole rateable property in the City of Toronto, according to the last revised assessment rolls of the said City, being those prepared in the year 1908 for the year 1909 is $234,597,194, exclusive of the property liable for school taxation only, and exempt from general taxation;

And whereas the general debenture debt of the City, as authorized and controlled by the said recited Act, and exclusive of local improvement debts and of the debt incurred for Water Works purposes, which, according to the said Act, is not to be counted as part of the general debenture debt, only amounts to $21,032,310, of which debt no part of the principal or interest is in arrear;

And whereas the sum of $250,000 is the debt intended to be created by this By-law;

And whereas it will require the sum of $10,000 to be raised annually for a period of thirty-eight years, the currency of the debentures to be issued under and by virtue of this By-law, to pay the interest of the said debt, and the sum of $3,615 to be raised annually during the same period for the forming of a sinking fund for the payment of the debt created by this By-law, according to the provisions of the above recited Acts, making in all the sum of $13,615 to be raised annually as aforesaid;

And whereas it is necessary that such annual sum of $13,615 shall be raised and levied in each year during the said period of thirty-eight years, by a special rate sufficient therefor on all the rateable property in the municipality of the City of Toronto;

Therefore the Council of the Corporation of the City of Toronto enacts as follows:

1. It shall be lawful for the Mayor of the City of Toronto and the City Treasurer to raise by way of loan, upon the security of the debentures hereinafter mentioned from any person or persons,

body or bodies corporate, who may be willing to advance the same upon the credit of such debentures, a sum of money not exceeding in the whole the sum of $250,000, and to cause the same to be paid into the hands of the Treasurer for the purposes and with the objects above recited.

2. It shall be lawful for the said Mayor and Treasurer to cause any number of debentures to be made for such sums of money as may be required for the purposes aforesaid, either in currency or sterling money payable in gold coin for not less than one hundred dollars currency, or twenty pounds sterling each, and not exceeding in the whole the said sum of $250,000, and the said debentures shall be sealed with the seal of the said Corporation, and be signed by the Mayor and the Treasurer.

3. The said debentures shall bear date the first day of July, 1910, and shall be made payable on the first day of July, 1948, in Canada, Great Britain, or elsewhere, and shall have attached to them coupons for the payment of interest.

4. The said debentures shall bear interest at the rate of four per cent. per annum from the date thereof, which interest shall be payable half-yearly, on the first days of the months of January and July in each year, at the place where the said debentures are made payable.

5. During the currency of the debentures to be issued under the authority of this By-law, the sum of $10,000 shall be raised annually for the payment of interest on said debentures, and the sum of $3,615 shall be raised annually for the purpose of forming a sinking fund for the payment of the principal of the said loan of $250,000 in thirty-eight years, according to the provisions of the above recited Acts, making in all the sum of $13,615 to be raised annually as aforesaid, and a special rate in the dollar upon all the assessed value of all the rateable property in the City of Toronto over and above all other rates and taxes, and which special rate shall be sufficient to produce in each year the said sum of $13,615, shall be annually levied and collected in each and every year during the currency of the said debentures.

6. The said Mayor and Treasurer may cause the said debentures, or a sufficient amount thereof, to be sold or hypothecated, or may authorize the said debentures, or any portion thereof, to be purchased or taken as and for a temporary or permanent investment of the sinking fund of the City of Toronto, and the proceeds thereof, after providing for the discount (if any) and the expenses of the negotiation and sale thereof, shall be applied for the purposes above specified and for no other purpose.

7. The debentures to be raised hereunder shall contain a provision in the following words: "This debenture or any interest therein shall not, after a certificate of ownership has been endorsed thereon by the Treasurer of this Municipal Corporation, be transferable except by entry by the Treasurer or his Deputy in the Debenture Registry Book of the said Corporation at the City of ," or to the like effect.

8. This By-law shall take effect on, from and after the passing thereof.

No. 123.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Toronto General Hospital.

1st Reading, 8th day of Feb., 1911.

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 124. 1911.

BILL

An Act for the Protection of Persons employed in the Construction of Buildings.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Appointment of inspectors of scaffoldings, hoistings, etc., by Lieutenant-Governor in Council.

1.—(1) If the Council of any city or town does not appoint a sufficient number of inspectors of scaffolding to provide for the proper and efficient inspection of the hoists, scaffoldings and other constructions mentioned in paragraph 1 of section 541 of *The Consolidated Municipal Act, 1903*, the Lieutenant-Governor in Council may appoint as many such inspectors as he may deem necessary to ensure such proper and efficient inspection, and their salaries or other remuneration shall be paid by the Corporation of such city or town.

3 Edw. VII. c. 19.

Prohibition as to erection of unsafe scaffolding, hoists, etc.

(2) Every person employing or directing another to perform labour in the erection, alteration, repair or improvement of any building, chimney or other structure, shall not furnish or erect or cause to be furnished or erected for the performance of such labour scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper or which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Requirements as to scaffolding swinging from overhead support.

(3) Scaffolding or staging swung or suspended from an overhead support more than twenty feet from the ground or floor shall have a safety rail of wood properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length outside and the ends thereof and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same swaying from the building or structure.

Penalty. Requirements as to completion of arched floors, etc.

(4) Every person who contravenes the provisions of this section, or who hinders or obstructs any inspector in the performance of his duties, shall incur a penalty not exceeding $500, recoverable under *The Ontario Summary Convictions Act.*

10 Edw. VII. c. 37.

2.—(1) Every owner and every contractor when constructing a building in a city where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material or brick work, shall complete the flooring or filling in as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected.

Requirements as to completion of floor where fire-proof filling not required.

(2) Where the plans and specifications do not require filling in between the beams of floors with fire-proof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under flooring of the building on each storey as the building progresses to not less than within two storeys below the one to which the building has been erected.

Requirements where double floors not used.

(3) Where double floors are not to be used, such contractor shall keep planked over the floor two storeys below the storey where the work is being performed.

Requirements where floor beams of iron or steel.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building in course of construction or the owner of such a building shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

Protection of shafts for elevators or hoists.

(5) If elevators, elevating machines or hod hoisting apparatus are used within a building in the course of construction for the purpose of lifting materials to be used in such construction, the owner or contractor shall cause the shafts or openings in each floor to be enclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three or more than four feet from the floor and not less than two feet from the edge of such shaft or opening.

(6) If a building in course of construction is five storeys or more in height no lumber or timber required for such construction shall be lifted on the outside of the building. When lumber not to be lifted on outside of building.

(7) The chief officer of the city charged with the enforcement of its building by-laws shall be charged with the duty of enforcing the provisions of this section. Officer to enforce Act.

(8) Every person who contravenes the provisions of this section shall incur a penalty not exceeding $500, recoverable under *The Ontario Summary Convictions Act.* Penalty. 10 Edw. VII. c. 37.

3. Nothing in section 2 shall affect any by-law relating to the matters mentioned in that section or any of them passed by a municipal council under the powers conferred by *The Consolidated Municipal Act, 1903,* or the authority of a municipal council to pass such a by-law, so far as such by-law imposes higher or greater duties than those imposed by section 2. By-law of Municipality when not to be affected. 3 Edw. VII. c. 19.

No. 124.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act for the Protection of Persons Employed in the Construction of Buildings.

1st Reading, 8th day of Feb., 1911.

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 124 1911.

BILL

An Act for the Protection of Persons Employed in the Construction of Buildings.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Buildings Trades Protection Act."*

2. In this Act

(*a*) "Building" shall include *any* structure roofed in or intended to be roofed in and capable when completed of affording protection and shelter.

(*b*) "Inspector" shall mean an inspector appointed by a municipal council or by the Lieutenant-Governor in Council for the purpose of enforcing the provisions of this Act.

3. The council of every city, town, township and village shall, by By-law, appoint a sufficient number of competent persons to be inspectors for the purpose of enforcing the provisions of this Act in the municipality.

4. The Lieutenant-Governor in Council may appoint inspectors to enforce this Act in territory without municipal organization.

5.—(1) Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building, he may give such orders *in writing* as may, *in his opinion,* be required to secure due compliance with such provision, and upon any such order being made and until *the same is* carried out the work upon *that* part of the building in which the default occurs shall *be suspended.*

(2) Every person to whom the order of the inspector is directed who disobeys or who knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of subsection 1 before the order is carried out shall incur a penalty not *exceeding* $50 for every day upon which such default occurs.

6. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building.

7. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building:

1. The floors of all scaffolding whether standing or suspended from overhead shall be at least four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon.

2. Where the scaffolding or staging is swung or suspended from an overhead support, it shall be secured as to prevent its swaying to and fro.

3. Where poles are used in scaffolding the poles shall be securely lashed at every point of contact and where square timber is used in scaffolding the same shall be securely bolted at every point of contact.

4. No lumber or timber shall be hoisted in a *single* sling.

5. Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated.

Requirements as to completion of arched floors, etc.

8.—(1) Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material, the flooring or filling in *shall be completed* as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected.

(2) Where the plans and specifications do not require filling in between the beams of floors with fire-proof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under flooring of the building on each storey as the building progresses to not less than within two storeys below the one to which the building has been erected. Completion of floor where fire-proof filling not required.

(3) Where double floors are not to be used, such contractor shall keep planked over the floor two storeys below the storey where the work is being performed. Requirements where double floors not used.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building in course of construction or the owner of such a building shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts. Requirements where floor beams of iron or steel.

9. In the case of what are known as skeleton steel frame buildings, compliance with the following regulations shall be sufficient and it shall not be necessary to comply with the requirements of section 8:

1. As soon as the steel frame of a building is erected to the first column splice above the first floor level, a flooring of two inch planking shall be laid over floor beams on the floor immediately below the first column splice, making a temporary floor over that part of the area of the building inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point. When erection has reached a point level with *the* next column splice, the planking used as temporary floor at first column splice shall be removed and placed as before at second splice, and so on to the top of the building.

☞ 2. A double flooring of two inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick. ☜

3. Riveters' staging shall be so constructed as to secure the reasonable safety of the riveters and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the riveters are

working, sufficient for the protection of workmen engaged below that floor.

4. The steel work may be carried on in advance of the construction of permanent floors.

10. In cities and towns the following regulations shall be complied with in erecting, altering, or repairing any building:

Erection on sidewalk in front of buildings in course of erection.

1. When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

2. If a building is to be erected within seven feet of the inside line of the sidewalk on any street, a strongly constructed close-boarded fence or barricade, not less than six feet high, *shall* be erected along the inside line of such sidewalk.

Placing building materials on sidewalks or roadways.

3. No person shall place any stone, brick, lumber, or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses; and the roofs of all covered ways *shall* be kept clear of any material whatever.

By-law of Municipality when not to be affected.

11. Nothing in this Act shall affect any by-law relating to the matters mentioned herein lawfully passed by a municipal council, or the authority of a municipal council to pass any such a by-law, so far as such by-law imposes additional or more stringent requirements than those imposed by this Act.

12. *The Ontario Summary Convictions Act* shall apply to every prosecution under this Act.

13. Sections 7, 8 and 9 of this Act shall not apply to any dwelling house not more than two stories in height nor to any work being done upon a building by the owner or occupant thereof *in person*.

No. 124.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act for the Protection of Persons Employed in the Construction of Buildings.

1st Reading, 8th day of Feb., 1911.
2nd Reading, 15th day of March, 1911.

(Reprinted as amended by Select Committee.)

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 125. 1911

BILL

An Act to amend The Motor Vehicles Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Motor Vehicles Act* is amended by adding the following section:— 6 Edw. VII. c. 46, amended

Application of penalty where constable or municipal officer prosecutes

20*a*. Where a constable or other officer of a municipality is the prosecutor or complainant any penalty or money imposed under this Act shall, when received, be paid over by the police magistrate or justice of the peace who imposed the penalty to the treasurer of the municipality for its use.

No. 125.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL

An Act to amend The Motor Vehicles Act.

First Reading 9th February, 1911.

Mr. McElroy.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty

No. 126. 1911.

BILL

An Act respecting Voluntary and Fraudulent Conveyances.

HIS MAJESTY by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Fraudulent Conveyances Act. New.* Short title.

INTERPRETATION.

2. In this Act

(*a*) "Conveyance" shall include gift, grant, alienation, bargain, charge, incumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise. Interpretation. "Conveyance."

(*b*) "Personal Property" shall include goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in any bank, company or corporation, and any interest therein. "Personal property."

(*c*) "Real Property" shall include lands, tenements, hereditaments, and any estate or interest therein. *New.* "Real property."

CONVEYANCES IN FRAUD OF CREDITORS.

3. Every conveyance of real property or personal property and every bond, suit, judgment and execution at any time had or made or at any time hereafter to be had or made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures shall be null and void as against such persons and their assigns. R.S.O. 1897, c. 334, s. 1. Fraudulent conveyances declared void as against creditors. 13 Eliz., c. 5, s. 1.

Proviso as to conveyances by tenants in tail. 13 Eliz., c. 5, s. 3.

4. Where a conveyance made by a tenant in tail is impeached under section 3, it shall nevertheless be as valid as against the heirs in tail, and all persons entitled in reversion or remainder as if this Act had not been passed. R.S.O. 1897, c. 334, s. 3.

Proviso as to conveyances made *bona fide* and for good consideration. 13 Eliz., c. 5, s. 5.

5. Section 3 shall not extend to any estate or interest in real property or personal property conveyed upon good consideration and *bona fide* to any person not having at the time of the conveyance to him notice or knowledge of such intent. R.S.O. 1897, c. 334, s. 4.

When valuable consideration and intent to pass interest to avail.

6.—(1) Section 3 shall apply to all conveyances executed with the intent in that section set forth notwithstanding that the same may be executed upon a valuable consideration and with the intention, as between the parties to the same, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless the same is protected under Section 5 by reason of *bona fides* and want of notice or knowledge on the part of the purchaser.

Instruments not affected.

(2) This section shall not apply to any instrument executed before the 2nd day of March, 1872. R.S.O. 1897, c. 115, s. 3.

CONVEYANCES IN FRAUD OF PURCHASERS.

Fraudulent conveyances made to deceive purchasers declared void as against such purchasers. 27 Eliz., c. 4, s. 1.

7. Every conveyance of real property had or made or at any time hereafter to be had or made with intent to defraud and deceive such person as may have purchased or shall afterwards purchase such real property shall be deemed only as against that person and his assigns, and all persons lawfully claiming under him, or them, who have purchased or shall hereafter purchase for money or other good consideration the same real property or any part thereof to be null and void. R.S.O. 1897, c. 334, s. 5.

Proviso for conveyances made on good consideration. 27 Eliz., c. 4, s. 3.

8. Section 7 shall not extend to or be construed to impeach, defeat, make null or void any conveyance of real property made upon or for good consideration and *bona fide*. R.S.O. 1897, c. 334, s. 7.

Conveyances made revocable of lands afterwards sold for good consideration to be void against the purchaser. 27 Eliz., c. 4, s. 4.

9. If any person makes a conveyance of real property with any clause, provision, article, or condition of revocation, determination or alteration at his will or pleasure, and after such conveyance bargains, sells, demises, grants, conveys or charges the same or any part thereof to any person for money or other good consideration paid or given, such first conveyance not being by him revoked, made void, or altered accord-

ing to the power and authority so reserved or expressed therein, then such first conveyance as touching the real property so after bargained, sold, conveyed, demised or charged against the bargainees, vendees, lessees, grantees, their heirs, successors, and their assigns and against every person lawfully claiming under them, shall be null and void. Provided nevertheless that no lawful mortgage made *bona fide,* and without fraud or covin, upon good consideration shall be impeached or impaired by force of this Act, but shall have the like force and effect as if this Act had not been passed. R.S.O. 1897, c. 334, s. 8.

Proviso as to mortgages.

Absence of Valuable Consideration.

10. Nothing in sections 7 to 9 shall extend to a conveyance which is executed in good faith and duly registered in the proper registry office or land titles office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to any subsequent purchaser from the same grantor of the same real property or any part thereof, nor shall the same merely by reason of the absence of a valuable consideration be null and void as against such purchaser or his heirs, executors, administrators or assigns or any person claiming by, from or under any of them. R.S.O. 1897, c. 115, s. 1.

No voluntary conveyance, etc., executed in good faith and duly registered to be void merely for absence of valuable consideration.

11. Nothing in the next preceding section shall have the effect of making valid any instrument which is for any reason other than or in addition to the absence of a valuable consideration void under sections 7 to 9 or otherwise; nor have the effect of making valid any instrument as against a purchaser who had, before the 28th day of February, 1868, entered into a binding contract for, or received his conveyance upon such purchase. R.S.O. 1897, c. 115, s. 2.

Instruments otherwise void not to be valid under preceding section

12. Chapter 115 and Chapter 334 (excepting Sections 2 and 6) of the Revised Statutes 1897 are repealed.

Repeal.

No. 126.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Voluntary and Fraudulent Conveyances.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 127. 1911

BILL

An Act to amend the Act Respecting Snow Fences.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. Section 1 of the *Act respecting Snow Fences* is amended by striking out all the words after the word "council" in the 14th line and substituting therefor the words "the same shall be settled by arbitration and three fence viewers appointed by the municipality shall be the arbitrators." Rev. Stat. c. 240, s. 1, amended. Arbitrators.

2. The said section 1 is further amended by adding the following subsections:— Rev. Stat., c. 240, s. 1, amended.

(2) The arbitrators shall examine the premises and shall, if required, hear evidence and may administer an oath for such purpose. Duties of arbitrators.

(3) The arbitrators shall be entitled to $2 a day, which shall be paid by the municipality if the amount of the award exceeds the amount offered by the municipality, otherwise by the owner or occupant. Fees.

(4) The award shall be filed in the office of the clerk of the municipality and an appeal shall lie therefrom to the Judge of the County or District Court of the County or District. Award to be filed in office of clerk.

(5) The provisions of section 11 of *The Line Fences Act* shall *mutatis mutandis* apply to such appeal. Rev. Stat., c. 284, s. 11, to apply.

3. Section 3 of the said Act is amended by striking out the words "under the *Municipal Act*" in the 11th and 12th lines and substituting therefor the words "as provided in section 1." Rev. Stat., c. 240, s. 3, amended.

No. 127.

1 George V., 1911.
3rd Session, 12th Legislature,

BILL

An Act to amend The Act Respecting Snow Fences.

First Reading 10th day of Feb., 1911.

Mr. EILBER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 128. 1911

BILL

An Act to amend the Act to Authorize and Regulate the Use of Traction Engines on Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 10 of the *Act to Authorize and Regulate the Use of Traction Engines on Highways* is amended by adding the following subsection (4): Rev. Stat., c. 242, s. 10, amended.

(4) A traction engine shall not enter upon or cross a bridge drawing behind it any tender, separator, machinery or vehicle. Traction engine to cross bridge separately.

No. 128.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL

An Act to amend the Act to Authorize and Regulate the Use of Traction Engines on Highways.

First Reading 10th February, 1911.

Mr. EILBER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 129. 1911.

BILL

An Act to amend the Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 5 of *The Assessment Act* is amended by adding at the end of paragraph 9 thereof the following words: "Provided this paragraph shall not apply to any real property when occupied by any tenant or lessee."

4 Edw. VII., c. 23, s. 5, par. 9, amended.

When property of charitable institution not to be exempt.

No. 129.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Assessment Act.

1st Reading, 13th day of Feb., 1911.

Mr. NICKLE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 130. 1911.

BILL

An Act respecting the use of Traction Engines.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The Act to authorize and regulate the use of Traction Engines on Highways is amended by adding thereto the following section: - Rev. Stat., c. 242, amended.

10*a*. No engine shall be run upon any unmetalled or unpaved earth road during the months of April or December. Not to run on earth roads in April or December.

No. 130.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the use of Traction Engines.

1st Reading, 13th day of Feb., 1911.

Mr. FERGUSON
(Cardwell).

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 131. 1911.

BILL

An Act to Amend the Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Paragraph 2 of section 5 of *The Assessment Act* is amended by striking out the words "place of worship and land used in connection therewith." 4 Edw. VII., c. 23, s. 5, amended. Place of worship not to be exempt.

Paragraphs 3 and 3*a* of section 5 of *The Assessment Act* are repealed. Schools, universities, seminaries of learning not to be exempt.

No. 131.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Assessment Act.

1st Reading, 13th day of Feb., 1911.

Mr. McKeown.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 132. 1911.

BILL

An Act respecting the Production and Sale of Milk for Human Consumption.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Milk Act.* Short title.

2. The Council of every municipality is hereby authorized to pass by-laws regulating milk produced for sale, offered for sale or sold within such municipality as to By-laws regulating milk produced for sale.

(*a*) The care of cows producing milk for sale for domestic consumption;

(*b*) The cleanliness, ventilation and sanitary conditions of the places in which cows are kept or milked or in which milk is stored;

(*c*) The water supplied to cows;

(*d*) The care, cleansing and type of all utensils used in handling milk, whether by producers, carriers or vendors;

(*e*) The proper care, storage, transportation and distribution of milk by producers, carriers or vendors;

(*f*) The making of bacteriological tests as a guide to the wholesomeness of milk offered for sale by any producer, carrier or vendor;

(*g*) Such other matters regarding the production, care, transportation or sale of milk as the Municipal Council may consider necessary;

Approval of regulations.

and upon such regulations being approved in writing by the Minister of Agriculture, the same shall apply to all milk produced for sale, offered for sale or sold within such municipality.

By-laws regulating the granting of licenses.

3.—(1) The Council of every municipality is hereby authorized to enact by-laws regulating the granting of licenses to producers and to vendors to sell milk, and shall have power to refuse or cancel such licenses.

Not to be sold without a license.

(2) No person shall sell milk in any municipality where such by-laws are in force without first obtaining a license therefor.

By-laws fixing standards of butter-fat and solids.

4.—(1) The Council of every municipality is hereby authorized to enact by-laws fixing the standard for butter fat and total solids of milk sold in such municipality, but no milk shall be sold for human consumption which contains less than twelve per cent. of solids, of which three per cent. shall be butter fat.

Preservatives, etc., not to be used.

(2) No person shall place any preservative in milk intended for human consumption, or sell or offer for sale to any vendor milk from which any part of the butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without previously giving notice in writing of such change to such vendor; and no vendor of milk shall sell or offer for sale milk not complying with the standard, or from which butter fat has been removed, or to which water has been added, or which has received special treatment causing it to differ from normal milk, without clearly and distinctly advertising the same in the manner demanded by the regulations of the municipality in which it is sold.

Appointment of municipal inspectors.

5.—(1) The Council of every municipality is authorized to appoint an inspector or inspectors for the enforcement of this Act and any regulations enacted hereunder, and each such inspector shall have power to prohibit the sale of milk which in his judgment is produced or handled contrary to the provisions of this Act or any regulations made hereunder.

Powers of inspectors.

(2) Every such inspector shall have the right to inspect the premises of every vendor licensed to sell milk within the municipality for which he is inspector, to see that the requirements of this Act and the regulations enacted hereunder are fully complied with, and to take samples of milk for examination and testing.

(3) Every such inspector shall have the right of entrance to the premises no matter where located, of every person producing milk for sale or consumption within the municipality for which he is inspector, of fully inspecting the same, and of taking for examination and having tested samples of milk produced therein and of the water supplied to cows or used in cleansing dairy utensils. Right to enter, take samples, etc.

(4) Every such inspector shall have the right to inspect and to take samples of milk for sale or consumption within the municipality for which he is inspector while in transit, and shall have the right of entrance to any premises in order to procure samples of such milk. Inspecting and taking samples in transit.

(5) The result of all said tests shall be open to public inspection at all reasonable times and may be published by the Medical Health Officer of the municipality if he so desires. Publication of tests.

6. No milk shall be sold from any cow which, upon physical examination by a certified veterinarian, shall be declared to be suffering from tuberculosis of the udder or milk glands, or whose milk, upon bacteriological or microscopical analysis, is shown to contain tubercle bacilli, or which is known to be suffering from splenic fever or anthrax, or any other general or local disease which is liable to render milk from such cow a menace to the public health. Where any doubt arises as to any cow being affected with any of the diseases above mentioned, it shall be the duty of the inspector to notify the owner that the milk of such cow must not be sold or offered for sale until a permit so to do has been granted by the Board of Health of the municipality in which such milk is being consumed; and upon such notice being given, no milk from such cow shall be sold until said permit has been granted. Milk from diseased cows.

7. No person suffering from or who has knowingly within a time prescribed by the regulations of the Provincial Board of Health been exposed to diphtheria, scarlet fever, typhoid fever, erysipelas, smallpox, anthrax or any infectious skin disease shall work or assist in the production, transportation or vending of milk, and no proprietor, manager or superintendent of any dairy or dairy farm shall knowingly permit any person suffering or exposed as aforesaid, to work or assist in the production, transportation or vending of milk, and the sale of milk produced or handled under such circumstances may be forthwith prohibited by the inspector. Persons suffering from diseases not to be employed.

8. No cans, bottles or other utensils used in the distribution of milk shall be used for any other purpose whatsoever, Cans, bottles, etc., not to be

used for any other purpose, and to be cleansed.

and all such cans, bottles and other utensils must be thoroughly cleansed before again being used.

Municipal Milk depots.

9. The Council of every municipality is authorized to establish and maintain or assist in the establishment and maintenance of Milk Depots in order to furnish a special supply of milk to infants.

Use of word "certified"

10. It shall be unlawful to apply the term "certified" to any milk which does not comply with the following standard:

Conditions.

(*a*) It shall be taken from cows semi-annually subjected to the tuberculin test and found without reaction;

(*b*) It shall contain not more than 10,000 bacteria per cubic centimetre from June to September, both inclusive, and not more than 5,000 bacteria per cubic centimetre from October to May, both inclusive;

(*c*) It shall be free from blood, pus, or disease-producing organisms;

(*d*) It shall be free from disagreeable odour or taste;

(*e*) It shall have undergone no pasteurization or sterilization, and be free from chemical preservatives;

(*f*) It shall be cooled to 45 degrees Fahrenheit or under within half an hour after milking, and kept at that temperature until delivered to the consumer;

(*g*) It shall contain twelve to thirteen per cent. of milk solids, of which at least three and one-half per cent. is butter fat;

(*h*) It shall be from a farm the herd of which is inspected monthly by the veterinarian, and the employees of which are examined monthly by a physician;

Proviso.

Provided that no milk shall be sold as "certified" until a certificate setting forth that the above conditions have been complied with is obtained from time to time from the Medical Health Officer of the municipality in which it is to be consumed or from an incorporated society of medical practitioners.

11. It shall not be lawful to apply the word "pasteurized" to any milk unless all portions have been subjected for at least twenty and not more than thirty minutes to a temperature of not less than 140 and not more than 145 degrees Fahrenheit and then at once cooled to 45 degrees Fahrenheit or under and kept at that temperature until delivered to the consumer, and the process of pasteurization shall be subject to inspection by the local Medical Health Officer or such inspector as he may designate; provided always that all such milk shall in all other respects be subject to all the terms and conditions of this Act. This section shall not come into force until July 1, 1911. Use of word "pasteurized." Proviso.

12. Any person violating any of the provisions of this Act or of the regulations passed hereunder shall be liable upon summary conviction to a fine of not less than $1 or more than $50, and in default of payment to imprisonment for a term not exceeding thirty days. Penalty.

13.—(1) Paragraphs 1, 2 and 2*a* of Section 550 of *The Consolidated Municipal Act, 1903,* as amended by Section 23 of *The Municipal Amendment Act, 1905,* are amended by striking out the word "milk" where it occurs in the said paragraphs. 3 Edw. VII. c. 19, s. 550, pars. 1, 2, 2a amended.

(2) Paragraphs 23 and 24 of Section 583 of *The Consolidated Municipal Act, 1903,* are repealed. 3 Edw. VII. c. 19, s. 583, pars. 23, 24 repealed.

(3) Sections 108 and 109 of *The Public Health Act* are amended by striking out the words "or milk" where they occur in the said sections and inserting the word "or" before the word immediately preceding the words so struck out. Rev. Stat. c. 248, ss. 108, 109 amended.

(4) The clause numbered 10 of the form of by-law in Schedule B of *The Public Health Act* is repealed and the said clause shall not apply to any municipality. Rev. Stat. c. 248, schedule B amended.

(5) Section 4 of *The Act respecting the Slaughtering of Cattle and the Inspection of Meat and Milk Supplies of Cities and Towns* is repealed. Rev. Stat. 250, s. 4 repealed.

No. 132.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Production and Sale of Milk for Human Consumption.

First Reading, 15th February, 1911.

Mr. Duff.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty

No. 132. 1911.

BILL

An Act respecting the Production and Sale of Milk for Human Consumption.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Milk Act.* Short title.

2. In this Act "Municipality" shall not include a County. Interpretation "Municipality."

3. The Council of every municipality, *other than a County,* is hereby authorized to pass by-laws *for* regulating milk produced for sale, offered for sale or sold within such municipality as to By-laws regulating milk produced for sale.

(*a*) The care of cows producing milk for sale for domestic consumption;

(*b*) The cleanliness, ventilation and sanitary conditions of the places in which cows are kept or milked or in which milk is stored;

(*c*) The water supplied to cows;

(*d*) The care *and* cleansing, *construction* and type of all utensils used in handling milk, whether by producers, carriers or vendors;

(*e*) The care, storage, transportation and distribution of milk by producers, carriers or vendors;

(*f*) The making of bacteriological tests *for the purpose of ascertaining* the wholesomeness of milk offered for sale by any producer, carrier or vendor; *and*

(*g*) Such other matters regarding the production, care, transportation or sale of milk as the Council may consider necessary;

Approval of regulations.

and upon such regulations being approved in writing by the Minister of Agriculture, the same shall apply to all milk produced for sale, offered for sale or sold within such municipality.

By-laws regulating the granting of licenses.

4—(1) The Council of every municipality is hereby authorized to enact by-laws regulating the granting of licenses to producers and to vendors to sell milk, and shall have power to refuse or cancel such licenses.

Not to be sold without a license.

(2) No person shall sell milk in any municipality where such by-laws are in force without first obtaining a license therefor.

By-laws fixing standards of butter-fat and solids.

5—(1) The Council of every municipality is hereby authorized to enact by-laws fixing the standard for butter fat and total solids of milk sold in such municipality, but no milk shall be sold for human consumption which contains less than twelve per cent. of solids, of which three per cent. shall be butter fat.

Preservatives, etc., not to be used.

(2) No person shall place any preservative in milk intended for human consumption, or sell or offer for sale to any vendor milk from which any part of the butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without previously giving notice in writing of such change to such vendor; and no vendor of milk shall sell or offer for sale milk not complying with the standard, or from which butter fat has been removed, or to which water has been added, or which has received special treatment causing it to differ from normal milk, without clearly and distinctly advertising the same in the manner demanded by the regulations of the municipality in which it is sold.

Appointment of municipal inspectors.

6—(1) The Council of every municipality is authorized to appoint an inspector or inspectors for the enforcement of this Act and any regulations enacted hereunder, and each such inspector shall have power to prohibit the sale of milk for consumption within the municipality for which he is inspector, which in his judgment is produced or handled contrary to the provisions of this Act or any regulations made hereunder.

(2) Every such inspector shall have the right to inspect the premises of every vendor licensed to sell milk within the municipality for which he is inspector, to see that the requirements of this Act and the regulations enacted hereunder are fully complied with, and to take samples of milk for examination and testing. Powers of inspectors.

(3) Every such inspector shall have the right of entrance to the premises no matter where located, of every person producing milk for sale or consumption within the municipality for which he is inspector, of fully inspecting the same, and of taking for examination and having tested samples of milk produced therein and of the water supplied to cows or used in cleansing dairy utensils. Right to enter, take samples, etc.

(4) Every such inspector shall have the right to inspect and to take samples of milk for sale or consumption within the municipality for which he is inspector while in transit, and shall have the right of entrance to any premises in order to procure samples of such milk. Inspecting and taking samples in transit.

(5) The result of all said tests shall be open to public inspection at all reasonable times and may be published by the Medical Health Officer of the municipality if he so desires. Publication of tests.

7. No milk shall be sold from any cow which, upon physical examination by a *duly qualified veterinary surgeon,* shall be declared to be suffering from tuberculosis of the udder or milk glands, or whose milk, upon bacteriological or microscopical analysis, is shown to contain tubercle bacilli, or which is known to be suffering from splenic fever or anthrax, or any other general or local disease which is liable to render milk from such cow a menace to the public health. Where any doubt arises as to any cow being affected with any of the diseases above mentioned, it shall be the duty of the inspector to notify the owner that the milk of such cow must not be sold or offered for sale until a permit so to do has been granted by the Board of Health of the municipality in which such milk is being consumed; and upon such notice being given, no milk from such cow shall be sold until said permit has been granted. Milk from diseased cows.

8. No person suffering from or who has knowingly within a time prescribed by the regulations of the Provincial Board of Health been exposed to diphtheria, scarlet fever, typhoid fever, erysipelas, smallpox, anthrax *or venereal disease* or any infectious skin disease shall work or assist in the production, transportation or vending Persons suffering from diseases not to be employed.

of milk, and no proprietor, manager or superintendent of any dairy or dairy farm shall knowingly permit any person suffering or exposed as aforesaid, to work or assist in the production, transportation or vending of milk; and the sale of milk produced or handled under such circumstances may be forthwith prohibited by the inspector.

Cans, bottles, etc., not to be used for any other purpose, and to be cleansed.

9. No cans, bottles or other utensils used in the distribution of milk shall be used for any other purpose whatsoever, and all such cans, bottles and other utensils must be thoroughly cleansed before again being used.

Municipal Milk depots.

10. The Council of every municipality is authorized to establish and maintain or assist *by annual grant or otherwise* in the establishment and maintenance of Milk Depots in order to furnish a special supply of milk to infants.

Use of word "certified"

11. It shall be unlawful to apply the term "certified" to any milk which does not comply with the following standard:

Conditions.

(*a*) It shall be taken from cows semi-annually subjected to the tuberculin test and found without reaction;

(*b*) It shall contain not more than 10,000 bacteria per cubic centimetre from June to September, both inclusive, and not more than 5,000 bacteria per cubic centimetre from October to May, both inclusive;

(*c*) It shall be free from blood, pus, or disease-producing organisms;

(*d*) It shall be free from disagreeable odour or taste;

(*e*) It shall have undergone no pasteurization or sterilization, and be free from chemical preservatives;

(*f*) It shall be cooled to 45 degrees Fahrenheit or under within half an hour after milking, and kept at that temperature until delivered to the consumer;

(*g*) It shall contain twelve to thirteen per cent. of milk solids, of which at least three and one-half per cent. is butter fat;

(*h*) It shall be from a farm the herd of which is inspected monthly by the veterinarian, and the employees of which are examined monthly by a physician;

Provided that no milk shall be sold as "certified" until a certificate setting forth that the above conditions have been complied with is obtained from time to time from the Medical Health Officer of the municipality in which it is to be consumed or from an incorporated society of medical practitioners. Proviso.

12. It shall not be lawful to apply the word "pasteurized" to any milk unless all portions have been subjected for at least twenty and not more than thirty minutes to a temperature of not less than 140 and not more than 150 degrees Fahrenheit and then at once cooled to 45 degrees Fahrenheit or under and kept at that temperature until delivered to the consumer, and the process of pasteurization shall be subject to inspection by the local Medical Health Officer or such inspector as he may designate; provided always that all such milk shall in all other respects be subject to all the terms and conditions of this Act. This section shall not come into force until July 1, 1911. Use of word "pasteurized." Proviso.

13—(1) Any person violating any of the provisions of this Act or of *any By-law or regulation* passed hereunder shall *incur a penalty* of not less than $1 nor more than $50. Penalty.

(2) ☞*The Ontario Summary Convictions Act* shall apply to every conviction under this Act.☜ Application of 10 Edw. VII., c. 37.

14—(1) Paragraphs 1, 2 and 2*a* of Section 550 of *The Consolidated Municipal Act, 1903,* as amended by Section 23 of *The Municipal Amendment Act, 1905,* are amended by striking out the word "milk" where it occurs in the said paragraphs. 3 Edw. VII. c. 19, s. 550, pars. 1, 2, 2a amended.

(2) Paragraph 23, ☞as enacted by section 22 of *The Municipal Amendment Act, 1910*, and Paragraph ☜ 24 of Section 583 of *The Consolidated Municipal Act, 1903,* are repealed. 3 Edw. VII. c. 19, s. 583, pars. 23, 24 repealed.

(3) Sections 108 and 109 of *The Public Health Act* are amended by striking out the words "or milk" where they occur in the said sections and inserting the word "or" before the word immediately preceding the words so struck out. Rev. Stat. c. 248, ss. 108, 109 amended.

(4) The clause numbered 10 of the form of by-law in Schedule B of *The Public Health Act* is repealed and the said clause shall not apply to any municipality. Rev. Stat. c. 248, schedule B amended.

(5) Section 4 of *The Act respecting the Slaughtering of Cattle and the Inspection of Meat and Milk Supplies of Cities and Towns* is repealed. Rev. Stat. 250, s. 4 repealed.

8 Edw. VII., c. 3, not to apply to milk for human consumption.

15. ☞Notwithstanding anything contained in *The Milk, Cheese and Butter Act*, being chapter 53 of the Acts passed in the 8th year of the reign of His late Majesty King Edward the VII., nothing in the said Act shall apply to milk produced, offered for sale, or sold, for human consumption; and the provisions of the said Act, so far as they relate to such milk, but to that extent only, are repealed and the said Act shall apply exclusively to milk and cream to be used in the manufacture of cheese and butter.☜

No. 132.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Production and Sale of Milk for Human Consumption.

1st Reading, 15th day of February, 1911.
2nd Reading, 21st day of February, 1911.

(*Reprinted as amended by Committee of the Whole House.*)

Mr. Duff.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 133. 1911

BILL

An Act respecting the Ontario and Minnesota Power Company.

Preamble.

WHEREAS The Ontario and Minnesota Power Company, Limited, did on the 2nd day of June, 1910, enter into an agreement with His Majesty the King, represented therein by the Honourable the Minister of Lands, Forests and Mines, in the said agreement referred to as "the Government," which agreement is set forth in the Schedule to this Act,

And whereas in the said agreement it was provided that the said Ontario and Minnesota Power Company, Limited, irrevocably and without power of revocation, requested the Government to obtain at the next ensuing Session of the Legislature an Act to ratify and confirm the said agreement and making the terms thereof binding upon the parties thereto, and providing also for the issuing of a perpetual injunction order in the event of a breach of the Order in Council referred to in said agreement, or of any of the terms of the said agreement,

And whereas it is expedient that an Act be passed for such purpose,

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Agreement between the Ontario and Minnesota Power Co., Limited, and the Crown confirmed.

1. The agreement set out in the Schedule hereto is ratified and confirmed and declared legal and valid for all purposes from the date thereof, and the parties thereto are authorized and empowered to do any and all acts necessary to carry out and give full effect to the said agreement in all respects, and in the event of a breach of the Order in Council referred to in the said agreement, or of any of the terms of the said agreement, it shall be lawful for the

High Court of Justice or a Judge thereof immediately to issue a perpetual injunction restraining the said The Ontario and Minnesota Power Company, Limited, from a further or continuing breach of the said agreement or of the said Order in Council or of either of them.

SCHEDULE.

This Indenture made in duplicate this second day of June, 1910,

BETWEEN

His Majesty the King, represented herein by The Honourable the Minister of Lands, Forests and Mines for the Province of Ontario (hereinafter called the Government), of the first part;

—and—

The Ontario and Minnesota Power Company, Limited (hereinafter called the Company), of the second part.

Whereas, by an Act of the Ontario Legislature passed in the sixth year of His late Majesty's reign and chaptered 132, it was amongst other things enacted that the Lieutenant-Governor in Council might, upon an application made to him and on its appearing that there was not a reasonable prospect of the utilization within a reasonable time of power or electrical energy unemployed, though actually available for use on the Canadian side of the Rainy River at or near Fort Frances, make an Order permitting the diversion of the whole or part of such power or electrical energy on such terms and conditions, including the time during which such diversion might continue as to the Lieutenant-Governor in Council might seem proper or expedient;

And whereas the dam, power house, generators, transmitters, machinery, appliances and connections necessary for the delivery by the Company of power or electrical energy for use on the Canadian side of the international boundary line and elsewhere have been erected and installed on the Canadian side thereof, as required by section 2 of the said Act and by the agreement referred to in said Act dated the 9th day of January, 1905, between His Majesty, of the first part, and Edward Wellington Backus of the City of Minneapolis, lumberman, and those associated with him, of the second part;

And whereas an application has been made by the Company to the Lieutenant-Governor in Council for an Order in Council, which the Company desire to be passed after the execution of this agreement (a copy of which proposed Order in Council is attached hereto and marked "A"), temporarily permitting the diversion of such power to the United States in the quantities and upon the terms and conditions therein set forth;

And whereas it is of the utmost importance to the Government and the people of the Province that no power or electrical energy should be permitted to be diverted to the United States, except as provided in the said Order in Council, and that the said diversion should at once cease upon the request of the Government; and as there is no adequate means of ascertaining the precise damage which may result from a greater diversion of such power or elec-

trical energy otherwise than is so provided, or which may result from the Company continuing to divert when requested to cease, and the parties hereto have agreed to fix now the amount to be payable as damages without proof of any damage;

And whereas industries may be established on the Canadian side desirous of utilizing the power so intended to be diverted and such power should be fully available for them whenever required or desired, at a reasonable price;

And whereas the said Order in Council permitting the said Company to divert power to the United States is to be passed, because there appears to be now on hand and available for use a quantity of electrical horse-power or energy in excess of what is required for use at present on the Canadian side, and it is explicitly understood between the parties hereto that the said Order is to be for a temporary purpose only, and the right to divert may be revoked at any time;

This indenture witnesseth and it is hereby agreed by and between the Company and the Government as follows:

In the event of the Company disregarding or not complying with that part of the said Order in Council which forbids the diversion of power or electrical energy either wholly or in a larger or greater quantity than is from time to time specifically permitted, they shall pay forthwith to the Government as liquidated damages, and not as a penalty, the sum of $50,000 (fifty thousand dollars) and shall also pay the sum of $100 (one hundred dollars) per diem for every day on which such breach of the said Order in Council continues, and such sums shall be recoverable by the Government from the Company as ascertained and liquidated damages and not by way of penalty, and it shall not be required in any action or upon any claim or demand hereunder to give evidence or proof of any actual damage.

It is further agreed by the parties hereto that the Company shall in the event of a breach of the said Order or of any of the terms of this agreement, consent to an Order from a Court or Judge of the High Court of Justice for an immediate perpetual injunction restraining them from a further or continuing breach of this agreement and the said Order in Council or either of them; the remedy by way of an injunction shall be in addition to the right of the Government to collect and receive the said sum of $50,000 (fifty thousand dollars) and $100 (one hundred dollars) per diem.

And it is further agreed that in addition to all other remedies the said Government may, upon a breach of the said Order in Council, or of any of the terms and conditions thereof, or of any of the terms of this agreement, on five days' written notice to the Company, or to its agent or employee in charge or in apparent charge of its plant at Fort Frances, Ontario, authorize the sheriff, or such other officer as it may appoint, to enter upon the premises of the said Company and to take such measures and do such acts and use such force as shall be necessary to prevent all diversion of electric current to the United States, or to any part thereof.

And it is further agreed that the said Company does hereby irrevocably and without power of revocation request the Government to obtain at the next ensuing Session of the Legislative Assembly for Ontario legislation to ratify and confirm this agreement, and make the terms thereof binding upon all the parties hereto, and providing also for the issuing of a perpetual injunction order as hereinbefore set forth.

And it is further agreed by and between the parties hereto that no works, or building, or plant which have been or which may hereafter be erected or installed by the Company on the American side shall be deemed, or by the Company be claimed to have been so erected or installed in consequence of anything in this agreement or in the said Order in Council.

It is further agreed that the price for power or electrical energy supplied or to be supplied to applicants for or users of power, or to prospective applicants or users by the Company on the Canadian side and the time within which, and the conditions on which the same shall be furnished for use and the methods of distribution thereof shall from time to time be fixed by the Hydro-Electric Power Commission of Ontario upon the application of any such user, applicant, prospective user or applicant, of the Town of Fort Frances, of the Township of McIrving, or on the application of any municipality, person, firm or corporation interested; and the price, time, terms, conditions and methods may be so fixed by the said Commission at any time either before or after a request or demand for power or electrical energy has been made upon the Company by any person, firm, corporation or municipality.

And it is further agreed that the power or electrical energy to be exported by the Company shall be measured by instruments installed or to be installed by the Company and such instruments shall be from time to time subject to the approval of the Government and subject to the inspection of the representative of the Government from time to time and at all times and the said representative may at all reasonable times test such instruments for the purpose of determining their accuracy, and in the event of the said instruments at any time proving inaccurate the Company shall at its own expense have the said instruments put into proper working condition, or shall replace the said inaccurate instruments with new approved ones in proper working order.

And it is further agreed that the maximum amount of electrical power or energy to be temporarily diverted to the United States shall not at any time exceed the horse-power indicated in the said Order in Council or in the notice or notices from the Minister of Lands, Forests and Mines referred to in such Order, as determined by a curve drawing polyphase watt meter.

Provided that a temporary diversion of power in excess of the horse-power indicated in the said Order in Council or in the notice or notices in this clause referred to, for a time not exceeding fifteen minutes continuously and not occurring more than twice in any one period of twelve hours, shall not be deemed a breach of this clause.

And it is further agreed that the temporary diversion to the United States for twenty-four hours or less of power or electrical energy in excess of the amount authorized by the said Order in Council, due to accident or the negligence of the Company's servants, shall not be deemed a breach of this agreement, and the burden of proof of such diversion being due to such accident or negligence shall be upon the Company.

And the said Company doth hereby covenant and agree with the Government that it will furnish a sufficient surety or sureties to the satisfaction of the Government before the Order in Council referred to herein is signed.

And it is further agreed that the term "Company" and the term "Government" herein shall extend to and include their and each of their respective successors and assigns.

In witness whereof these presents have been duly executed under seal.

F. COCHRANE, (Seal.)
Minister of Lands, Forests and Mines
for the Province of Ontario.

Signed, sealed and delivered in the presence of

GLYN OSLER,
As to Execution by the Ontario and
Minnesota Power Company, Limited.

EDWARD BAYLY,
As to Execution by the Minister of
Lands, Forests and Mines.

THE ONTARIO AND MINNESOTA
POWER COMPANY, LIMITED.

By E. W. BACKUS, (Seal.)
President.

Copy of an Order-in-Council approved by His Honour the Lieutenant-Governor, the 2nd day of June, A.D. 1910.

Upon the recommendation of the Honourable the Minister of Lands, Forests and Mines, the Committee of Council advise that pursuant to the application of the Ontario & Minnesota Power Company, Limited, made under Section 4 of the Act passed in the 6th year of the reign of His late Majesty and Chaptered 132, the said company having entered into an agreement with His Majesty dated the 2nd day of June, 1910, a copy of which is submitted herewith, the said company be permitted to divert temporarily to the United States so much power or electrical energy not exceeding in all six thousand horse power (as determined by a curve drawing polyphase watt meter) as shall leave at least one thousand horse power constantly available and unemployed for use or in use on the Canadian side, said diversion of electrical energy to be permitted and to continue only until the expiration of thirty days after the said company has received notice in writing from the Minister of Lands, Forests and Mines to discontinue such diversion, or the said company has received a notice or notices in writing from time to time from the said Minister to discontinue diverting such quantity as shall be specified in such notice or notices.

Certified.

J. LONSDALE CAPREOL,

Clerk, Executive Council.

No. 133.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Ontario and Minnesota Power Company, Limited.

First Reading, 15th February, 1911.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 134. 1911

BILL

An Act to amend The Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 16 of section 5 of *The Assessment Act* is amended by inserting the words "boilers and engines" between the words "including" and "gas" in the fourth line. 4 Edw. VII. c. 23, s. 5, par. 16, amended.

Assessment of boilers and engines.

No. 134.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Assessment Act.

First Reading 15th day of Feb., 1911

Mr. MAHAFFY.

TORONTO:
PRINTED BY L. K CAMERON,
Printer to the King's Most Excellent Majesty

No. 135. 1911.

BILL

An Act to amend the Municipal Act

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. No Municipal Corporation shall grant aid by way of bonus,— Aid by way of bonus prohibited.

(*a*) For the promotion of any manufacturing industry; or

(*b*) For the promotion of iron or other smelting or refining works; or

(*c*) For the promotion of a beet sugar factory; or

(*d*) For promoting the establishment of rolling mills and iron works, or

(*e*) For promoting the establishment of grain elevators.

2. In this Act "bonus" shall mean and include What "bonus" to include.

(*a*) A grant of money as a gift or a loan, either unconditionally or conditionally.

(*b*) The guaranteeing of the repayment of money loaned and interest.

(*c*) The gift of lands owned by the municipality or the purchase of lands as a site for building and works or as a means of access or for any other purpose connected with the manufacturing industry to be aided or the leasing of lands either freely or at a nominal rental for any such purpose.

(*d*) The closing up or opening, widening, paving or improving of any street, alley, lane, square, or other public place or the undertaking of any other public work or improvement which involves the expenditure of money by a corporation for the particular use or benefit of a manufacturing industry.

(*e*) The supplying of water, light or power by the municipal corporation either freely or at rates less than those charged to other persons and corporations in the municipality.

(*f*) Generally the doing, undertaking or suffering on the part of a municipal corporation of any act, matter or thing which involves or may thereafter involve the expenditure of money by a municipal corporation.

Certain sections of 3 Edw. VII. c. 19 repealed.

3. The following sections and parts of sections of *The Consolidated Municipal Act, 1903*, relating to bonuses prohibited by Section 1 are repealed, namely, Section 366*a*, Paragraph 12 of Section 591, and Sections 591*a*, 591*b*, 700, 700*a*, 700*b*, 700*c* and 701.

No. 135.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

First Reading, 15th February, 1911.

Mr. CRAIG.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 136. 1911.

BILL

An Act to amend The Ontario Railway Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 98 of *The Ontario Railway Act, 1906,* is amended by adding thereto the following subsections: 6 Edw. VII. c. 30, s. 98 amended.

(8) Where the lines or tracks of any railway, the construction or operation of which is authorized by the Legislature of the Province of Ontario, are intersected by those of a railway the construction or operation of which is authorized by the Parliament of Canada, or in any case in which the tracks or lines of any two such railways run through or into the same city, town or village, and it is desired by one of such companies or by any municipal corporation or other public body, or any person or persons interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines and trains from the tracks or lines of one railway to those of another, and for the reasonable receiving, forwarding, delivery, and interswitching of traffic between the said railways, the following proceedings may be had and taken: Connections between intersecting lines or tracks running through or into city, town or village, under Dominion and Provincial jurisdiction.

(*a*) Either of such companies, or any municipal corporation or other public body, or any person or persons interested, may file with the Secretary of the Board, or with the Secretary of the Board of Railway Commissioners for Canada, an application for an order that such connection should be required to be made, together with evidence of service of such application upon the railway company, or companies, interested or affected, and where the application is not made by the municipality upon the head of the municipal corporation within which the proposed connection is situate. Application to Railway Boards.

Joint order of Boards.

(*b*) After the receipt of the said application, the Board, and the Board of Railway Commissioners for Canada, may, by joint session or conference, in conformity with the practice to be established by them, hear and determine the said application, and may order that the lines and tracks of such railways shall be so connected at or near the point of intersection, or at or near such city, town or village, upon such terms and conditions and subject to such plans as they may deem proper.

Rules.

(*c*) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof, and may vary, alter or rescind the same from time to time.

Appointment of joint Board.

(*d*) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may from time to time assign or appoint from each Board the members comprising the joint Board that may be required to sit for the hearing and determining of such applications, as they arise.

Made order rule of Exchequer Court.

(*e*) Any order aforesaid may be made a rule of the Exchequer Court of Canada, and shall be enforced in like manner as any rule, order, or decree of such Court.

"Railway," meaning of.

9. The word "railway" shall in the next preceding subsection include any steam or electric street railway or tramway.

No. 136.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Railway Act, 1906.

First Reading, 15th February, 1911.

Mr. HENDRIE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 137. 1911.

BILL

An Act to amend the Registry Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 80 of *The Registry Act* is amended by adding thereto the following subsections: 10 Edw. VII c. 60, s. 80, amended.

(20) Every plan of survey or subdivision of lands lying within five miles of the boundaries of a city having a population of 50,000 or over, before registration shall be deposited with the Secretary of the Ontario Railway and Municipal Board. Plan of land within 5 miles of city of 50,000.

(21) Notice of such deposit shall be given in writing to the Clerk of the city and a copy of the plan shall be delivered to him with such notice. Notice of deposit with Ontario Railway and Municipal Board.

(22) If the corporation of the city desires to object to the plan, the objections shall be stated in writing and filed with the Secretary of the Board within thirty days after delivery of the notice and plan to the clerk. Objections of City Corporation.

(23) If no objection is made within said period by the city, the Secretary of the Board shall endorse upon the plan a statement to that effect and sign the same, and the plan may thereupon be registered. Where no objection made.

(24) The grounds upon which the city may object to the plan are: Grounds for objection.

(*a*) That the location, direction and width of any street or the size and shape of any lot shewn upon the plan are objectionable in view of the probable extension of the limits of the city and the desirability of securing adequate and connected thoroughfares and highways, and

(*b*) Generally grounds connected with the subject of city planning having regard to the growth of the city, convenience of the inhabitants and the due and convenient operation of public services therein.

Board may direct alteration of plan.

(25) In case objections are made by the city within thirty days, the Board, after hearing the city and the person depositing the plan, may direct that the same shall be modified or altered so as to remove the cause for such objection.

Approval of Board to be endorsed.

(26) The plan as approved by the Board, either with or without alteration, shall be endorsed by the Secretary with a statement that the plan is approved, or is approved as amended, and may thereupon be registered.

No. 137.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Registry Act.

First Reading, 15th February, 1911.

Mr. McPherson.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 138. 1911.

BILL

An Act to amend The Municipal Act

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 348 of *The Consolidated Municipal Act, 1903*, is repealed and the following substituted therefor: 3 Edw. VII. c. 19, s. 348 repealed.

Clerk to deliver to deputy returning officer voters' list.

348.—(1) In the case of municipalities which are divided into wards or polling subdivisions, the clerk of the municipality shall, before the poll is opened, prepare and deliver to the Deputy Returning Officer for every ward or polling subdivision a voters' list, printed or written, or partly printed and partly written, containing the names, arranged alphabetically, of all freeholders appearing by the last revised voters' list to be entitled to vote in that ward or polling subdivision and of all leaseholders whose names appear on that part of such last revised voters' list relating to the ward or subdivision and who have filed certificates as provided by sub-section 1 of section 354, and he shall certify such list to be correct.

Power to clerk to give a certificate entitling person to vote whose name has been omitted from voters' list.

(2) If it appears to the Clerk of the Municipality that the name of any freeholder who is rated on the last revised assessment roll for sufficient real property to entitle him to vote or of any leaseholder who is so rated and who has filed a certificate as provided by sub-section 1 of section 354 has been inadvertently omitted from such last revised voters' list, the Clerk at the request of such freeholder or leaseholder shall give him a certificate setting forth that fact and the real property in respect of which he is rated, and such freeholder or leaseholder upon delivering such certificate to and leaving the same with the Deputy Returning Officer shall be entitled to vote.

No. 138.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

First Reading, 15th February, 1911.

Mr. McPherson.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 139. 1911

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 664 of *The Consolidated Municipal Act, 1903*, is amended by adding the following as paragraph 3*a*:— 3 Edw. VII. c. 19, s. 664, par. 3a amended.

3*a*. In the case of a city or town for constructing, on petition only, retaining walls, dykes or breakwaters along the banks of rivers, and for issuing debentures to meet the cost thereof, payable within twenty years from the date of issue. Constructing dykes, retaining walls, as local improvements.

No. 139.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

First Reading 15th day of Feb., 1911.

Mr. PATTINSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 140. 1911.

BILL

An Act respecting Coroners and Coroners' Inquests

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Forms, s. 41.
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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Coroners Act.* (*New.*) Short title.

2. In this Act, "Coroner" shall include Associate Coroner. Interpretation "Coroner."

PART I.

APPOINTMENT OF CORONERS

GENERALLY.

Appointment of Coroners generally.

3. (1) The Lieutenant-Governor in Council may appoint one or more Coroners for the whole or any part of every county, city, town, provisional judicial district and provisional county. See R.S.O., 1897, c. 97, s. 1 (1).

Not to apply in Toronto.

(2) This section shall not apply to the City of Toronto. (*New.*)

SPECIAL PROVISION AS TO THE CITY OF TORONTO.

Appointment for Toronto.

4.—(1) The Lieutenant-Governor in Council may appoint a Coroner, to be called the Chief Coroner, and such number of Associate Coroners as may be deemed proper, for the City of Toronto.

Associate coroners in Toronto.

(2) An Associate Coroner, subject to such regulations as the Lieutenant-Governor in Council may prescribe, shall perform all the duties and exercise all the powers of a Coroner.

Coroners and associate coroners for York to be associate coroners for Toronto

(3) Except the Chief Coroner, every Coroner and Associate Coroner, appointed for the County of York, including the City of Toronto, shall have, exercise and perform within the City of Toronto only such powers and duties as are assigned by the regulations to an Associate Coroner.

Salary of coroner for Toronto.

(4) The Chief Coroner shall be paid in lieu of all fees by the Corporation of the City half-yearly, such salary not exceeding $1,500 per annum, as may be fixed by the Lieutenant-Governor in Council, and the Corporation shall be reimbursed out of the Consolidated Revenue Fund to the extent of one-half such salary. (*See* 3 Edw .VII., c. 7, s. 22, *part.*)

NOTICE OF APPOINTMENT.

Appointment to be filed.

5. A copy of the Order in Council appointing a Coroner shall be sent to the Clerk of the Peace of the County or District in which the Coroner is to act, and shall be filed by him in his office. (See *The Coroners Act, 1887* (*Imp.*), *c. 71, s. 12* (*3*).)

PART II.

INQUEST ON DEATH.

DISQUALIFICATION OF CORONER.

Coroner not to act in certain cases where interested.

6. A Coroner shall not conduct an inquest upon the body of any person whose death has been caused at or on a railway, mine or other work, whereof he is the owner or part owner, or which is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant or in any other capacity by the owner thereof, or under any agreement or understanding direct or indirect, with the employees at or on such work. R.S.O., 1897, c. 97, s. 7.

DUTY OF CORONER ON INFORMATION OF DEATH.

When coroner to inquire as to cause of death.

7.—(1) Where a Coroner is informed that there is within his jurisdiction the body of a deceased person, and that there is reason to believe that the deceased died from violence or by unfair means, or in consequence of culpable or negligent conduct of others, or under such circumstances as require investigation, he shall issue his warrant to take possession of the body, Form 1, and shall view the body and make such further enquiry as may be required to satisfy himself whether or not an inquest is necessary. (See R.S.O., c. 97, s. 2.)

No other coroner to interfere.

(2) After the issue of such warrant, no other Coroner shall issue a warrant or interfere in the case except under the instructions of the Attorney-General or the Crown Attorney. *New.*

When coroner deems inquest necessary.

8. If, after making such enquiry, the Coroner deems it necessary that an inquest should be held, he shall issue his warrant, Form 2, for the holding of an inquest, and shall forthwith transmit to the Crown Attorney a statutory declaration, Form 3, setting forth briefly the result of such enquiry, and the grounds upon which he deems it necessary that an inquest should be held. (See R.S.O., c. 97, s. 6 (1).)

Warrant for burial where coroner deems inquest unnecessary.

9. If, after viewing the body and making such enquiry, the Coroner deems an inquest unnecessary, he shall issue his warrant, Form 4, to bury the body, and shall forthwith transmit to the Crown Attorney a statutory declaration, Form 5, setting forth briefly the result of such enquiry and the grounds on which the warrant has been issued. (See R.S.O., c. 97, s. 6 (1).)

Crown not bound by action of coroner.

(2) Notwithstanding such declaration, the Attorney-General or the Crown Attorney may direct the Coroner making the same, or some other Coroner having jurisdiction, to hold an inquest upon the body, and the Coroner to whom such direction is given shall forthwith issue his warrant for an inquest and hold the same accordingly. *New.*

Fees of coroner when inquest not held.

10. If the Coroner declares an inquest to be unnecessary and an inquest is not held by him, he shall be entitled for his services to a fee of five dollars and mileage at the rate of 20 cents per mile for every mile necessarily travelled by him, and such fee and mileage shall be paid in the same manner and upon the same conditions as the fees of a Coroner in a case in which an inquest is held. (See R.S.O., c. 97, s. 6 (3).)

WHEN INQUEST COMPULSORY.

Accidents on railways and street railways operated on or over high ways.

11. Where the death of any person appears to have been caused in the construction or operation of any railway, street railway or electric railway, the Crown Attorney, subject to the provisions of section 6, shall direct a Coroner having jurisdiction in the locality to hold an inquest upon the body of the person so dying, and the Coroner shall issue his warrant and hold an inquest accordingly. (See 3 Edw. VII., c. 7, s. 22, *part.*)

Death in county house of refuge or house of industry.

12.—(1) Where an inmate of a house of refuge or house of industry dies, the superintendent, or other officer in charge, shall immediately give notice of such death to the Crown Attorney.

Order of Crown Attorney for inquest.

(2) On receipt of such notice the Crown Attorney shall enquire into the facts, and if, as a result of such enquiry, he is of opinion that such death took place under circumstances requiring an investigation, he shall direct a Coroner having jurisdiction to hold an inquest upon the body of the deceased person, and the Coroner shall issue his warrant, Form 2, and hold an inquest accordingly. (See R.S.O., 1897, c. 97, s. 3.)



Death of prisoner.

13. Where a prisoner in a gaol, prison, house of correction, reformatory or lock-up dies, the warden, gaoler, keeper or superintendent thereof shall immediately give notice of such death to a Coroner having jurisdiction in the county, city or town in which such death takes place, and the Coroner shall issue his warrant, Form 2, and hold an inquest upon the body. (See R.S.O., 1897, c. 97, s. 3.)

POWERS AND DUTIES OF CROWN ATTORNEY OR COUNSEL FOR ATTORNEY-GENERAL.

Notice to be given to Crown Attorney.

14.—(1) Every Coroner, before holding an inquest, shall notify the Crown Attorney of the time and place of holding the same, and the Crown Attorney may, and if directed by the Attorney-General shall, attend the inquest, and may examine or cross-examine the witnesses thereat, and the Coroner shall summon such witnesses as the Crown Attorney directs. R.S.O., 1897, c. 97, s. 5.

Special Counsel for Attorney General.

(2) The Attorney-General may be represented by Counsel at any inquest, and such Counsel shall have the same powers as the Crown Attorney has under subsection 1. *(New.)*

MEDICAL WITNESSES AND POST-MORTEM.

Ordering *post mortem*.

15.—(1) The Coroner may at any time before the termination of the inquest, by his warrant, Form 6, direct a *post mortem* examination to be made by a medical practitioner with or without an analysis of the contents of the stomach and intestines.

When consent of Crown Attorney to *post mortem* required.

(2) A *post mortem* examination shall not be made without the consent in writing of the Crown Attorney unless an inquest is actually held. (See R.S.O., 1897, c. 97, s. 12.)

Report of *post mortem*.

(3) Every medical practitioner making a *post mortem* examination shall make a report thereon in writing upon a form approved by the Lieutenant-Governor in Council, which shall be supplied by the Coroner. *New.*

Fees not to be paid unless report made.

(4) No fees shall be paid to a medical practitioner for a *post mortem* examination unless such report is made and contains the particulars required by the form or satisfactorily accounts for their absence. *New.*

Calling medical attendant of deceased.

16.—(1) The Coroner may issue his warrant, Form 6, for the attendance before him or at the inquest of the legally qualified medical practitioner, if any, who attended the deceased at his death, or during his last illness, or of any other legally qualified medical practitioner in or near the place where the death occurred, but he shall not without the consent of the Crown Attorney order the attendance of more than one medical practitioner. (See R.S.O., c. 97, ss. 11, 12; *The Coroners Act (Imp.)*, c. 71, s. 21 (1).)

Fees of medical witness.

(2) A legally qualified medical practitioner shall be entitled for each attendance in obedience to any such order to $5 and mileage at the rate of twenty cents per mile for every mile necessarily travelled, and for a *post mortem* examination without an analysis of the contents of the stomach or intestines he shall be entitled to a fee of $15, and if with such analysis to an additional fee of $25.

When *post mortem* is held.

Proving mileage.

(3) The number of miles so travelled shall be proved by the statutory declaration of the medical practitioner. (See R.S.O., 1897, c. 97, s. 14.)

JURY.

Number of jurors to be summoned.

17.—(1) The number of jurymen to be summoned to serve on an inquest shall be not less than seven nor more than twelve.

And to find inquisition.

(2) An inquisition may be found by a majority being not less than seven in number of the jurors sworn. *New.*

Jury may be dispensed with in Districts.

18. Where an inquest is held in a Provisional Judicial District the Coroner may, with the consent of the Crown Attorney, hold the inquest without a jury. *New.*

Qualification of jurors.

19. A person shall not be qualified to serve as a juror unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror. (See R.S.O., 1897, c. 97, s. 8.)

Disqualification.

20. An officer, employee or inmate of a house of refuge, house of industry, hospital, asylum, or charitable institution, gaol, prison, house of correction, reformatory or lock-up, shall not be qualified to serve as a juror at an inquest upon the body of any person whose death occurred therein. (*New.*)

Fees of jurors.

21.—(1) Every juror serving at an inquest shall be entitled to $1 for every day upon which such inquest is held and is continued for not more than four hours, and where the time occupied by an inquest on any day exceeds four hours, one dollar in addition for each such day and mileage at the rate of ten cents per mile for each mile necessarily travelled from his place of residence to the place where the inquest is held. (See R.S.O., 1897, c. 97, s. 16 (1). *Amended.*)

Order of coroner for payment.

(2) Subject to the provisions of section 23, the amount to be paid to jurors shall be certified by the Coroner, who shall make his order for payment thereof. R.S.O., 1897, c. 97, s. 18 (2), *part.*

PAYMENT OF EXPENSES.

Expenses of inquest.

22. The Coroner shall give to every person entitled to fees, mileage or other expenses in connection with an inquest, an order on the treasurer of the county, or of the city or separated town in which an inquest is held, for the payment thereof, and upon presentation of the order the treasurer shall pay the amount named therein. (*New.*)

EXPENSES OF INQUEST WHEN CAUSE OF DEATH TAKES PLACE OUTSIDE CITY OR TOWN.

Payment of expenses of certain inquests in city or separated town

23.—(1) Where an inquest is held upon the body of a person who has died in a county, city or separated town and the jury find that the cause of death did not arise within such county, city or town, the Coroner shall make an order for the payment of the fees and expenses in connection with such inquest on the treasurer of the county, city or town in which the inquest is held, who shall thereupon pay the same; and the amount so paid, shall on demand be repaid by the treasurer of the county, city or separated town in which the matter causing the death is found to have arisen or taken place.

(2) In this section "county" shall not include a city or a town separated from a county for municipal purposes. 4 Edw. VII., c. 10, s. 78.

ANNUAL RETURNS.

Return to Attorney-General

24.—(1) Every Coroner shall on or before the 15th day of January in each year make a return to the Attorney-General for the year ending on the 31st day of December next preceding, containing

(*a*) Every case in which after investigation by him an inquest was deemed unnecessary, and

(*b*) Every case in which an inquest was held by him, with the findings of the jury thereon.

Particulars in return.

(2) The return shall as far as possible show the name, place of residence and occupation of the deceased, the place of death, and the cause of death as found by the coroner on such investigation, or by the jury at the inquest. (See R.S.O., 1897, c. 97, s. 19.)

Form of return.

(3) The return shall be in the form prescribed by the Lieutenant-Governor in Council which shall be furnished to all coroners. *New.*

FEES OF CORONERS.

Coroner's fees.

25.—(1) The fees and expenses to be allowed and paid to a coroner holding an inquest upon a death shall be those set forth in schedule "A" and shall be payable in the first instance by the city or county and the city or county shall be recouped for the same out of the Consolidated Revenue Fund.

10 Edw. VII. c. 41, schedule amended.

(2) The tariff of fees under the heading of "Coroners," the items therein being numbered from 1 to 8, in Schedule "A" to *The Administration of Justice Expenses Act,* is repealed.

(3) The list of charges payable out of the Consolidated Revenue Fund under the heading of "Coroners" in Schedule "C" to the said Act is repealed. *New.*

PART III.

INVESTIGATION OF FIRES.

ON REQUISITION OF INSURANCE COMPANY OR MUNICIPAL COUNCIL.

Material upon which coroner to act.

26. Where a Coroner within whose jurisdiction a fire has occurred, whereby any building, or any moveable property, has been wholly or in part consumed or damaged, receives

(*a*) A requisition in writing signed by the agent of an insurance company setting forth the facts as far as known, and stating that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as in the interests of justice and for the due protection of property require investigation; and requiring the coroner to hold an inquiry into the cause and origin of the fire; together with a statutory declaration that the statements made in the requisition are true to the knowledge of the person making the declaration; or

(*b*) A resolution passed by the council of the city, town, village or township in which the fire took place, that there are strong special and public reasons why an investigation should be held into the cause and origin of the fire and stating such reasons, and

(*c*) An undertaking on the part of the insurance company or council to pay the expenses of the inquiry,

he may in his discretion issue his warrant for summoning not less than 7 nor more than 12 of the householders resident in the vicinity of the fire to hear the evidence that may be adduced concerning the same and to render a verdict under oath according to the facts, or he may hold the inquest without a jury. (See R.S.O. 1897, c. 275, ss. 1-3.)

FEES OF CORONER.

27. Where an inquest is held by a Coroner in respect of a fire, the Coroner shall be entitled to the sum of $10, and should the enquiry extend beyond one day, then to $10 *per diem* for each of two days thereafter and no more. R.S.O. 1897, c. 275, s. 7. *Amended.* Fees of coroner.

PAYMENT OF EXPENSES.

28. The insurance company or municipal council requiring the inquest shall alone be responsible for the expenses of and attending the same, and the fees, mileage and other charges shall be certified by the Coroner, who shall give his order in writing upon the company or the treasurer of the municipality, as the case may be, for payment thereof to the persons entitled thereto, and the same shall be payable accordingly. R.S.O. 1897, c. 275, s. 8. *Amended.* Party requiring it to pay costs.

29. The expenses consequent upon an adjournment of an inquest shall not be chargeable against or payable by the insurance company or municipal council requiring the investigation unless the Coroner has certified, under his hand, why and for what purpose in his opinion an adjournment took place or became necessary. R.S.O. 1897, c. 275, s. 10. In what case only costs of adjournment shall be allowed

WHO TO BE PARTIES TO INVESTIGATION.

30.—(1) A director or officer of any fire insurance company interested, or the assured, or any person claiming under a policy of insurance, or any person prejudicially affected by any of the evidence adduced may attend personally or by counsel any investigation held under this Part as party thereto and may, with the Coroner's consent, examine, cross-examine or re-examine witnesses, as the case may be. R.S.O 1897, c. 275, s. 12. Who to be parties

(2) The Coroner shall summon such witnesses as he may deem necessary and as may be required by any party to the investigation. *New.* Summoning witnesses

DISQUALIFICATIONS.

Disqualification of coroner for interest.

31. A Coroner who is a director or officer of the insurance company, or who is interested in any way, shall not hold an investigation under this Part, nor shall any such director or officer or any other interested person act for the Coroner as clerk reporter or otherwise in taking down or recording the depositions or evidence. R.S.O. 1897, c. 275, s. 13.

PART IV.

PROVINCIAL CORONERS.

Appointment of provincial coroners to hold fire investigations.

32.—(1) The Lieutenant-Governor in Council may appoint Provincial Coroners, each of whom shall be by virtue of his appointment a Coroner for every county, provisional county and provisional judicial district for the purpose of

(*a*) holding fire inquests,

(*b*) holding investigations in cases of maiming or suspected poisoning of horses, cattle and other domestic animals, and

(*c*) holding an investigation in any case in which there is in his opinion reason to believe that property has been destroyed or damaged by the wilful or malicious use of explosives.

(2) Except where otherwise expressly provided, a Provincial Coroner when holding an inquest or investigation shall have all the powers of a Coroner.

Inquests by provincial coroner.

(3) Where a fire has occurred whereby any building or any moveable property has been wholly or in part consumed or damaged, and it appears to a Provincial Coroner that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as require investigation, he may hold an inquest as to the cause or origin of the fire, and may summon a jury for that purpose as provided by section 16, or may dispense with a jury as he may deem expedient.

Assent of Attorney-General or crown attorney required.

(4) A Provincial Coroner may hold an inquest or investigation without or upon the like requisition as in the case of a Coroner acting under Part III, but he shall not enter upon any inquest or investigation without the consent of the Attorney-General or the Crown Attorney.

Expenses of investigation.

(5) Where a Provincial Coroner acts upon the requisition of an agent of an insurance company, or upon the resolution of a municipal council, the expenses of and incidental to the investigation shall be borne and paid in the same manner

as in the case of an inquiry by a Coroner, and in other cases such expenses shall be borne and paid in the same manner as in the case of an inquest upon the body of a deceased person. *New.* See R.S.O. 1897, c. 275, s. 113; 7 Edw. VII. c. 23, ss. 10, 11.

PART V.

GENERAL PROVISIONS.

APPLICATION.

Application of Part V.

33. This Part shall apply to every inquest and investigation held by a Coroner or by a Provincial Coroner under the authority of this Act or of any other Act or law in force in Ontario. *New.*

WITNESSES AND EVIDENCE.

Powers of coroner.

34.—(1) In addition to any other powers which he may possess a Coroner shall have the same power to issue summonses to witnesses, Form 8, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the High Court. *New.*

Fine for non-attendance.

(2) A fine imposed for non-attendance or refusal to give evidence shall not in the case of a medical practitioner exceed $40, and in the case of any other witness shall not exceed $10. See R.S.O. 1897, c. 97, s. 15. *Amended.*

Taking evidence in shorthand.

35.—(1) The evidence upon an inquest or any part of it, with the sanction of the Crown Attorney, may be taken in shorthand by a stenographer who may be appointed by the Coroner, and who before acting shall make oath that he will truly and faithfully report the evidence; and where evidence is so taken it shall not be necessary that it be read over to or signed by the witness, but it shall be sufficient if the transcript is signed by the Coroner and is accompanied by an affidavit of the stenographer that it is a true report of such evidence. 8 Edw. VII., c. 33, s. 29, *part.*

Payment of fees of stenographer.

(2) The Coroner shall certify what he deems a reasonable allowance for the fees of the stenographer, and the same shall be paid on the order of the Coroner in the same manner as the other expenses of the witnesses. 10 Edw. VII., c. 26, s. 1.

When approval of Crown Attorney unnecessary.

(3) The sanction of the Crown Attorney to the employment of a stenographer shall not be necessary in the case of an inquest held by a Provincial Coroner or in the case of a fire inquest where one of the parties thereto in writing requests the Coroner to employ a stenographer and agrees to pay the extra charges occasioned thereby. *New.*

INTERPRETERS.

Interpreter.

36.—(1) A Coroner may, and if required by the Crown Attorney shall, employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest.

Fees—How payable.

(2) An interpreter shall be paid for his attendance and services such fees as may be fixed by the Provincial Coroner or by the Coroner with the approval of the Crown Attorney. 8 Edw. VII. c. 33, s. 30 (1) *part.*

PENALTY ON JUROR FOR NON-ATTENDANCE.

Juror not attending —fine.

37. Where a person duly summoned to serve as a juror does not attend, the Coroner may impose upon him a fine not exceeding $4.

RECOVERY OF FINES.

Estreating fines.

38. Where a fine is imposed by a Coroner under this Act he shall thereupon make out and sign a certificate stating the name, residence and occupation of the delinquent, the amount of the fine imposed and the cause of the fine, and shall transmit such certificate to the Clerk of the Peace of the county in which the delinquent resides on or before the first day of the General Sessions of the Peace then next ensuing, and the fine so certified shall be estreated, levied and applied in like manner and upon and subject to the like powers, provisions and penalties as if it had been a fine imposed at the General Sessions. See R.S.O., 1897, c. 97, s. 9 and *part* 10.

RETURN OF INQUISITION.

Return of inquisition.

39. Every Coroner shall forthwith after an inquisition found by or before him, return the same, and every recognizance taken before him, with the evidence and exhibits, to the Crown Attorney. R.S.O. 1897, c. 97, s. 18.

COURT ROOM FOR INQUEST.

Council of city or town to provide accommodation for inquest.

40.—(1) The Council of every city and town shall provide a suitable place for the holding of inquests, and until it is provided for that purpose, inquests may be held in the Police Court room of the municipality, but at such times as shall not interfere with the use of such court room for the holding of the Police Court.

Coroner may procure room in default of council.

(2) If a suitable place is not provided by the council, the Coroner may procure a suitable place for holding the inquest and the expense incurred shall be borne by the municipality. 5 Edw. VII. c. 15, s. 1.

FORMS.

Forms.

41. The forms set out in Schedule B may be used for the purposes therein designated, but no inquisition shall be set aside or quashed on account of any deviation from any of such forms, where the instrument in question has been duly signed and attested, and the effect thereof is the same as that set out in the form provided for the purpose. *New.*

REPEAL.

Repeal.

42. Chapters 97 and 275 of the Revised Statutes of Ontario, 1897; Section 22 of *The Statute Law Amendment Act*, 1903; section 78 of *The Statute Law Amendment Act*, 1904; section 1 of the Act passed in the Fifth year of the Reign of His late Majesty King Edward VII., chaptered 15; sections 10 and 11 of *The Statute Law Amendment Act*, 1907; sections 29 and 30 of *The Statute Law Amendment Act*, 1908, and section 1 of *The Statute Law Amendment Act*, 1910, are repealed.

(*For special provisions as to Coroners when acting under The Sheriffs Act*, see 9 Edw. VII. c. 6, ss. 14-16.)

(*As to Fatal Accidents in Mines*, see 8 Edw. VII., c. 163.)

SCHEDULE A.

(*a*)	Impanelling a jury	$2 00
(*b*)	Examining each witness (including summons)	50
(*c*)	Taking each recognizance	50
(*d*)	Necessary travel per mile	20
(*e*)	Taking inquisition and making return	10 00
(*f*)	Every warrant	1 00
(*g*)	Order for the payment of jurors	1 00

(*New.*)

SCHEDULE B.

FORM 1.

CORONER'S WARRANT TO TAKE POSSESSION OF BODY.

Province of Ontario
of
To wit

To the Chief Constable of the
of
in the County (*or* district)
of

By virtue of my office these are in His Majesty's name to charge and command you that on sight hereof you forthwith take in charge the body of deceased (*or* the body of an unknown person) now lying dead at (*describing as accurately as possible the locality in which body lies*).

And thereafter do and execute all such things as shall be given you in charge on behalf of our Sovereign Lord the King touching the death of and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of 19 .

Coroner.

FORM 2.

WARRANT TO HOLD INQUEST ON DEATH.

Province of Ontario
of
To wit

To the Chief Constable of the
of
in the County (*or* district)
of

By virtue of my office these are in His Majesty's name to charge and command you that on sight hereof you summon and warn (*not less than* seven *nor more than* twelve) able and efficient men of your County (*or* City) personally to be and appear before me on day the day of at o'clock in the noon of the same day at called or known by the name or sign of situate in the said then and there to do and execute all such things that shall be given them in charge on behalf of our Sovereign Lord the King touching the death of and for so doing this shall be your sufficient warrant; and that you also attend at the time and place above mentioned to make a return of the names of the persons whom you shall have so summoned and further to do and execute such other matters as shall be then and there enjoined you and have you then and there this warrant.

Given under my hand and seal this day of 19 .

Coroner.

FORM 3.

DECLARATION OF CORONER THAT INQUEST NECESSARY.

Province of Ontario
of
To wit

I,
of the of in the
of a Coroner
in and for said do
hereby solemnly declare:

That after viewing the body of (*or* the body of an unknown person) now lying dead at in this I am of opinion that there is good reason for believing that (*or* an unknown man, woman, or male or female child) now lying dead at did not come to his (or her) death from natural causes, or from mere accident or mischance; but came to his (or her) death from violence or unfair means, or culpable or negligent conduct of others, or under other circumstances requiring investigation by a Coroner's inquest.

And I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at the
of
in the of
this day of
19

Coroner.

A Commissioner, etc.

FORM 4.

WARRANT TO BURY AFTER A VIEW.

Province of Ontario
of
To wit

To the person in charge or control of the burying grounds in the and to all others whom it may concern.

Whereas, an inquisition hath this day been held upon view of the body of who now lies dead in your (township or city or as the case may be). These are therefore to certify that you may lawfully permit the body of the said to be buried and for your so doing this is your warrant.

Given under my hand and seal this day of 19

Coroner

FORM 5.

DECLARATION OF CORONER UPON ORDER FOR BURIAL.

Province of Ontario
of
To wit

In the matter of
deceased

I, Coroner of the
of in the County of
do solemnly declare that I visited and examined the body of the said and learned from the following facts:—

Upon these facts I issued an order to bury the body.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of The Canada Evidence Act.

Declared before me at the
of
in the of
this day of 19

A Commissioner, etc.

FORM 6.

WARRANT TO MEDICAL PRACTITIONER.

Province of Ontario
of
To wit

To
a legally qualified medical
practitioner of the of
in the of

By virtue of my office, these are in His Majesty's name to charge and command you that you do [make or assist in making a *post mortem* examination of the body of
now lying dead at the of
in the County of with an analysis, and] appear
before me and my jury at in the
of on the day of
19 , at o'clock, and give further evidence touching the death of

Given under my hand and seal this day of
19

Coroner.

The words between the brackets [] may be omitted when a *post mortem* examination is not required.

FORM 7.

SUMMONS TO A JUROR.

Province of Ontario
of
To wit

By virtue of a Warrant under the hand and seal of
His Majesty's Coroner for this of of
you are hereby summoned personally to be and appear before him as
a juryman on the day of
at o'clock in the
precisely, at the known by the name or sign
of in the of
then and there to enquire, on His Majesty's behalf, touching the death of
and further to do and execute such other matters and things as shall be then and there enjoined you, and not depart without leave

Herein fail not at your peril.

Dated the day of 19

To of
in the

Constable

FORM 8.

SUMMONS TO A WITNESS.

Province of Ontario
of
To wit

To
of the of
in the of

Whereas I am credibly informed that you can give material evidence on behalf of our Sovereign Lord the King, touching the death of now lying dead in the of in the said *County* of
These are, therefore, by virtue of my office, in His Majesty's name, to charge and command you personally to be and appear before me at (*here insert a sufficient description of the place where the inquest is to be held*) in the said at of the clock in the noon, on the day of (and then and there to give evidence and be examined, on His Majesty's behalf, before me and my inquest touching the premises.

Given under my hand and seal this
day of 19

Coroner.

No. 140.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Coroners and Coroners' Inquests.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 141. 1911

BILL

An Act to amend the Motor Vehicles Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Motor Vehicles Act* is amended by adding thereto the following section: 6 Edw. VII. c. 46 amended.

25*a*—(1) Every person licensed to drive a motor vehicle for hire, pay or gain, under section 2*a* of this Act, shall at all times while so employed carry with him the license under which he acts, and every other person driving or operating a motor vehicle upon the public highway shall at all times while so engaged carry with him the permit issued in respect of the said motor vehicle, and every person driving or operating a motor vehicle shall produce the license or permit, as the case may be, to the Police Magistrate or Justice of the Peace before whom he may be charged with the violation of any of the provisions of this Act; and it shall be the duty of such Police Magistrate or Justice of the Peace before returning such permit or license to endorse upon it the date and a short signed statement of the particulars of any conviction made by him against the person to whom such permit or license has been issued, unless it appears therefrom or is otherwise satisfactorily proven that the person to whom such permit or license has been issued has been convicted of the violation of any of the provisions of this Act within a period of twelve months from the date on which the offence under his consideration is found to have occurred; in such case, and if a conviction be made, such Police Magistrate or Justice of the Peace shall retain the said permit or license endorsing thereon the date and short particulars of the conviction, write across the face the words, "cancelled for second conviction," and having signed such memoranda shall forthwith forward the same by registered post letter to the Provincial Secretary.

License or permit to be produced before Police Magistrate trying charge.

Magistrate to endorse on license or permit particulars of connection, etc.

Penalty for not having license or permit.

(2) No person shall drive or operate a motor vehicle upon any public street or highway unless he has with him at such time the license issued to him, if he be operating for hire, pay or gain; or if not operating for hire, pay or gain, unless he have with him the permit issued in respect of the motor vehicle which he is driving or operating, and any person violating the provisions of this subsection shall be liable to the penalties provided by section 20 of this Act.

No. 141.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Motor Vehicles Act.

First Reading, 17th February, 1911.

Mr. Stock.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 142. 1911

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Consolidated Municipal Act, 1903,* is amended by adding the following as section 630*a*: 3 Edw. VII. c. 19, amended.

630*a*—(1) A city having a population of over 25,000 may agree with an adjoining township or townships as to what highways should be laid out in the land lying within two miles of the limits of the city and for that purpose may prepare and register, as provided by *The Registry Act,* a plan showing such highways and after the registration of such plan no owner of land within such limit shall register any plan proposing to lay out any other highway. Plans laying out land within 2 miles of city over 25,000. 10 Edw. VII. c. 60.

(2) In case the city and the township or townships fail to agree as to such plan the city may on giving notice to the township or townships apply to The Ontario Railway and Municipal Board for the approval of the plan and the Board may make such alterations in the plan as may seem proper. Application to Ont. Railway and Municipal Board for approval of plan.

(3) The plan approved of by the Board shall be registered as required by *The Registry Act* and after registration no land in the limits affected shall be sold except according to such plan. Registration of plan.

No. 142.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

1st Reading 17th day of February, 1911.

Mr. McElroy.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 143. 1911.

BILL

An Act respecting the Town of Oshawa.

Preamble.

WHEREAS a Petition has been presented to the Municipal Corporation of the Town of Oshawa desiring an asphalt block pavement to be constructed as a local improvement on King Street in the said Town of Oshawa from the East side of Prospect Street to the East side of Mechanic Street in the said Town, signed by more than two-thirds in number of the owners of the real property to be benefited thereby, according to the last revised Assessment Roll of the Municipality, such owners representing at least one-half in value of the said real property; and whereas a further Petition has been presented to the Municipal Corporation of the Town of Oshawa desiring an asphalt block pavement to be constructed as a local improvement on Simcoe Street from the North side of Richmond Street to the South side of Medcalf Street, signed by more than two-thirds in number of the owners of the real property to be benefited thereby, according to the last revised Assessment Roll of the Municipality, such owners representing at least one-half of such real property, and otherwise as set out in the said Petitions; and whereas a Company was incorporated under the name of "The Oshawa Railway & Navigation Company" by an Act of Parliament of Canada (50-51 Victoria, Chap. 92), and by a subsequent Act of the Parliament of Canada (54-55 Victoria, Chap. 91) the name of the Company was changed to "The Oshawa Railway Company"; and whereas under certain agreements made between the Town of Oshawa and the said Company and certain By-laws of the said Corporation, all of which have been confirmed by the following Acts of the Legislature of the Province of Ontario, namely, 56 Victoria (1893), Chap. 73, and 58 Victoria (1895), Chap. 110, and also by an Act of the Parliament of Canada, 58-59 Victoria, Chap. 56, the Company was among other things empowered to lay tracks on certain streets, and operate a Street Railway in the said Town; and whereas the said Company has laid tracks and is operating the said Railway on Simcoe and King Streets and other Streets of the said Town;

and whereas negotiations have taken place between the said Corporation of the Town of Oshawa and the said Company whereby it is proposed that the said Corporation in constructing the pavements asked for by the said Petitions or that may be decided on shall in the area on the said streets occupied by the tracks of the said Railway, hereinafter called the track allowance, do and perform all work and supply all road materials necessary for the construction of the said pavements, and concrete base eight inches in thickness beneath the ties of the tracks of the said Railway, and for nine inches or more beyond the ends of the ties, or such other thickness or distance as may be agreed on, and also pay for all labour of relaying the ties and rails of the said Railway in the said pavements, the latter work to be done by men supplied by and under the direction of the Railway, and the ties and rails and other Railway construction material to be supplied by the Railway Company or otherwise, and that in consideration thereof the said Railway Company should agree to pay a proportion of the cost thereof, and by such yearly instalments as may be agreed upon between the said Municipal Corporation of the Town of Oshawa and the said Railway, and with such provisions, terms and conditions incidental thereto as to the said contracting parties may seem proper; and whereas the Corporation of the Town of Oshawa has further petitioned that it may be authorized to enter into such an agreement or agreements, and that the cost and outlay incurred in such work on the track allowance on the said streets occupied by the rails of the said Railway may be declared to be part of the entire cost of the construction of the said pavements respectively as local improvements so petitioned for within the meaning of *The Consolidated Municipal Act, 1903,* and amendments thereto, and the said Corporation has also petitioned that the said Municipality of the Town of Oshawa may likewise be empowered to enter into agreements from time to time of like nature with regard to the paving of other portions of King Street and Simcoe Street and other streets in the said Town of Oshawa upon which the tracks of the said Railway are or may be laid; and whereas it is expedient to grant the prayer of the said petitions;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Construction of pavements on track allowance of street railway, etc.

1. It shall be lawful for the Municipal Corporation of the Town of Oshawa in constructing the pavements so petitioned for, or such pavement as may be decided upon on King Street from the East side of Prospect Street to the East side of Mechanic Street, and on Simcoe Street from the North

side of Richmond Street to the South side of Medcalf Street in the said Town of Oshawa, to do and perform all the work and supply all the road materials necessary for the construction of such pavements on the track allowance in the said streets so to be paved, including a concrete base eight inches in thickness beneath the ties of the tracks of the said Railway and for nine inches beyond the ends of the ties or such other thickness or base or distance as may be agreed on, and also to pay for all labour in relaying the ties and rails of the Railway in the said pavements, the ties and rails and other Railway construction material to be supplied by the Railway Company, or to do and perform such work in such other way or to such other extent or on such plan or terms as may be agreed upon between the Corporation of the Town of Oshawa and the said Railway Company, and that the cost of and outlay therefor shall be deemed and form part of the entire cost of the work of the construction of the said pavements as local improvements as petitioned for, and within the meaning of *The Consolidated Municipal Act, 1903,* and amendments thereto, and any other Acts relating to Municipalities and Local Improvements that may be in force and applicable thereto, and as if expressly provided for in such Acts as forming a part of the cost of the said local improvements.

Power to agree with Street Railway *re* construction of pavements on track allowance.

2. The said Corporation of the Town of Oshawa is, notwithstanding the provisions of *An Act respecting certain Railway and other Corporations* passed in the Seventh year of the reign of His late Majesty, chaptered 37, hereby authorized and empowered to enter into an agreement or agreements with the said The Oshawa Railway Company, in relation to the doing of the work and making of the outlay aforesaid on the track allowance and the payment by the Company of a proportion of the cost of the work and outlay on the said track allowance as may be agreed upon between the said Municipal Corporation of the Town of Oshawa and the said The Oshawa Railway Company, and providing for the payment thereof by yearly instalments not extending beyond twenty years, and containing such provisions, terms and conditions for the carrying on of the said work and of and incidental to the matters aforesaid as to the said contracting parties may seem proper, and such agreement or agreements when entered into shall be valid and binding upon the said Corporation of the Town of Oshawa, the said The Oshawa Railway Company and their successors, and all properties benefited by the said Local Improvements so petitioned for as aforesaid.

"Track allowance," meaning of.

3. Wherever in this Act the words "track allowance" are used the same shall mean all the roadway between the rails

and the space of 27 inches outside of each rail, where single tracks are or shall be laid, and where Y's, turnouts, switches or side tracks are or shall be laid, the words "track allowance" shall mean the whole space between the rails of the switches, side tracks, Y's and turnouts and between the tracks and the switches, and between the tracks and the turnouts and 27 inches outside of the outer rails of such Y's, turnouts, switches, and side tracks and where loops are or shall be laid the said words shall mean the roadway between the rails and the space of 27 inches outside of each rail.

Power to make agreements with Street Railway for construction of pavements on other streets.

4. The said Corporation, notwithstanding the provisions of *An Act Respecting Certain Railway and Other Corporations* passed in the seventh year of His late Majesty's reign, chaptered 37, is hereby empowered in like manner to enter into a further agreement or agreements with the said The Oshawa Railway Company, or their successors, of like character in relation to the construction of pavements on other portions of the said King and Simcoe Streets and on other streets in the said Town of Oshawa on which the tracks of the said Railway Company are or may be laid, and such agreement or agreements in like manner shall be binding upon the Corporation of the said Town of Oshawa and the said The Oshawa Railway Company, and their successors, and the properties benefited by such local improvements as may be petitioned for or decided upon from time to time, and the cost and outlay incurred by the said Town on the track allowance shall likewise be deemed a part of the cost of the pavement or pavements of such Streets within the meaning of the Acts in force in this Province relating to Municipalities and Local Improvements in like manner and to the same extent as by this Act is provided with reference to the pavements on parts of King and Simcoe Streets petitioned for as aforesaid.

Accounts of moneys received to be kept by treasurer.

5. A separate account or accounts shall be kept by the Treasurer of the said Corporation of the Town of Oshawa of all moneys received and expended on account of or in connection with the construction of the said pavements, including all moneys received from The Oshawa Railway Company, or their successors, under any agreement or agreements entered into between the said Municipal Corporation and the said The Oshawa Railway Company, or their successors, under this Act, and the moneys received from the said The Oshawa Railway Company, or their successors, under such agreement or agreements before the first day of January in any year may be applied in reduction of the rate payable for the next year to meet the debentures issued by the said Corporation of the Town of Oshawa for the payment of the cost of the construction of the pavements.

6. It shall not be necessary for the said Municipal Corporation before passing any By-law or By-laws incidental to the carrying out of the said work or of the agreement or agreements, or the issuing debentures or levying rates therefor, to obtain the assent of the ratepayers thereto. Assent of electors not required to by-laws.

7. The Corporation of the Town of Oshawa may apply to The Ontario Railway and Municipal Board for a certificate approving any By-law or By-laws that may be passed from time to time for borrowing money or for imposing an assessment or assessments or special rate or rates in connection with the construction of such pavements as Local Improvements, including the cost of the work and outlay on the track allowance. Approval of by-laws by Ontario Railway and Municipal Board.

8. The said Board may grant the certificate or certificates notwithstanding any irregularity in the proceedings prior to the final passing of any such By-law or in any such By-law itself, or any amending By-law, if in the opinion of the Board the provisions of the Statutes, under the authority of which the By-law or By-laws were assumed to be passed, have been substantially complied with. Irregularity in by-laws not to prevent approval.

9. Every such By-law approved by the Board and the debentures issued thereunder, or which may thereafter be issued, substantially in conformity with its provisions shall be valid and binding upon the Municipality of the Town of Oshawa and upon the property liable for the rate or rates imposed by or under the authority of such By-law or By-laws, and the validity of every such By-law and every such debenture so approved shall not thereafter be open to question in any Court. By-laws when approved to be binding.

10. Where any such By-law has been approved, the Board may approve the debentures issued or which may thereafter be issued under the authority of the By-law, and every debenture so approved shall be valid and binding upon the Municipality of the Town of Oshawa and upon the property liable for the rate or rates imposed by or under the authority of the By-law and the validity of any debenture so approved shall not be open to question in any Court. Debentures binding when approved.

No. 143.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Town of Oshawa

(*Private Bill.*)

Mr. CALDER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 144. 1911.

BILL

An Act to amend the Ontario Railway Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Ontario Railway Act, 1906,* is amended by adding the following as section 214*a*: 6 Edw. VII., c. 30, amended.

214*a*—(1) What is known as the pay as you enter system of collecting fares shall not be operated on any street railway car unless such car complies with the following requirements: Conditions upon which pay as you enter cars may be operated.

(*a*) It must have a rear platform at least 72 inches deep with a folding step not less than 54 inches long.

(*b*) The rear platform must be enclosed and properly heated, and provided with a door or doors having an aggregate width of at least 54 inches, so arranged as to permit of the entrance and exit of passengers at one and the same time.

(*c*) If there is a partition between the rear platform and the body of the car such partition must have doors or openings so arranged as to permit of the entrance and exit of passengers at one and the same time.

(*d*) The front platform must be enclosed and properly heated. It shall be provided with an exit door at least 30 inches wide and a folding step of the same width. If there is a partition between this platform and the body of the car it must be provided with an exit door or opening not less than 30 inches wide.

Application of section.

(2) This section shall apply to cities only having a population of 100,000 or over.

Penalty.

(3) Every person who violates the provisions of this section shall, on summary conviction therefor, incur a penalty of $100.00 per day for each car operated contrary to the provisions of this section.

No. 144.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Ontario Railway Act, 1906.

First Reading, 20th February, 1911.

Mr. McNaught.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 144. 1911.

BILL

An Act to amend The Ontario Railway Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Ontario Railway Act, 1906,* is amended by adding the following as section 214*a*: 6 Edw. VII., c. 30, amended.

214*a*—(1) What is known as the pay as you enter system of collecting fares shall not be operated on any street railway car unless such car complies with the following requirements: Conditions upon which pay as you enter cars may be operated.

(*a*) It must have a rear platform at least 72 inches deep with a folding step not less than 54 inches long.

(*b*) The rear platform must be enclosed and properly heated, and provided with a door or doors having an aggregate width of at least 54 inches, so arranged as to permit of the entrance and exit of passengers at one and the same time.

(*c*) If there is a partition between the rear platform and the body of the car such partition must have doors or openings so arranged as to permit of the entrance and exit of passengers at one and the same time.

(*d*) The front platform must be enclosed and properly heated. It shall be provided with an exit door at least 30 inches wide and a folding step of the same width. If there is a partition between this platform and the body of the car it must be provided with an exit door or opening not less than 30 inches wide.

Application of section.

(2) This section shall apply to cities only having a population of 100,000 or over.

Penalty.

(3) Every *company or* person who violates the provisions of this section shall, on summary conviction therefor, incur a penalty of $100.00 per day for each car operated contrary to the provisions of this section.

Application to Ontario Railway and Municipal Board to vary.

(4) The provisions of the preceding subsections may from time to time be varied or extended by The Ontario Railway and Municipal Board on any application made to the Board for such purpose.

No. 144.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Railway Act, 1906.

1st Reading, 20th day of February, 1911.
2nd Reading, 23rd day of February, 1911.
3rd Reading, day of March, 1911.

(*Reprinted as amended by The Railway Committee.*)

Mr. McNaught.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 145. 1911.

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 604 of *The Consolidated Municipal Act, 1903*, is repealed. 3 Edw. VII., c. 19, s. 604 repealed.

2. Section 613 of *The Consolidated Municipal Act, 1903*, is repealed and the following substituted therefor:— 3 Edw. VII., c. 19, s. 613 repealed.

613. Every County Council shall have exclusive jurisdiction over Jurisdiction of counties over roads and bridges.

(1) Every road and bridge lying within any township, town or village in the county which the County Council by by-law assumes with the assent of the council of such township, town or village,

(2) Every bridge crossing a river, stream, pond, lake or ravine separating two townships in the county,

(3) Every bridge crossing a river, stream, pond, lake or ravine, forming or crossing a boundary line between two local municipalities other than cities and separated towns in the county, and,

(4) Every bridge of eighty feet or over in length, upon any highway in the county and which is wholly or partly within the limits of a city or a town separated from the county for municipal purposes.

3. Section 616 of *The Consolidated Municipal Act, 1903*, is repealed and the following substituted therefor:— 3 Edw. VII., c. 19, s. 616 repealed.

How roads to be planked, etc., and bridges to be built by county.

616. Where the council of any county by by-law assumes a road or bridge, or where under this Act it is the duty of a County Council to construct and maintain a road or bridge, the County Council shall cause the road to be planked, gravelled or macadamized in a good and substantial manner or the bridge to be built, or to be re-built in the manner prescribed by this Act.

3 Edw. VII., c. 19, s. 617, subs. 3 and 4 amended.

4.—(1) Subsections 3 and 4 of section 617 of *The Consolidated Municipal Act, 1903*, as amended by section 27 of *The Municipal Amendment Act, 1904*, are repealed.

(2) Subsection 5 of section 617 as enacted by section 13 of *The Municipal Amendment Act, 1910*, is amended by striking out all the words after the word "determined" in the ninth line and substituting therefor the words "as provided by section 618."

3 Edw. VII., c. 19, s. 617a repealed.

5. Section 617*a* of *The Consolidated Municipal Act, 1903*, and the amendments thereto are repealed.

3 Edw. VII., c. 19, ss. 618 and 618b.

6. Section 618 of *The Consolidated Municipal Act, 1903*, as enacted by section 24 of *The Municipal Amendment Act, 1907*, section 618*a* of the said Act as enacted by section 25 of *The Municipal Amendment Act, 1907*, and section 618*b* as enacted by section 20 of *The Municipal Amendment Act, 1908*, and all amendments thereto are repealed and the following sections substituted therefor:—

Settlement of disputes as to liability for bridges.

618.—(1) Whenever a dispute arises as to the duty or liability of a municipal corporation to build and maintain a bridge in whole or in part the council of any municipality interested may by resolution set forth the grounds of complaint or the question in dispute and declare that application shall be made to the Judge of the county or district court of the county or district in which the bridge or any part of it is situate or is proposed to be built for an order determining the matter in dispute.

Resolution authorizing application to judge.

Service of resolution.

(2) After the passing of such resolution the Clerk of the municipality, the council of which has passed such resolution, shall forthwith serve a copy thereof certified under his hand and the corporate seal of the municipality to be a true copy thereof upon the clerk of every other municipality affected.

(3) After the service of the resolution application may be made by or on behalf of the corporation the council of which has passed the same to the Judge of the County or District Court of such county or district for an appointment in writing for the hearing of an application to determine the matter in dispute. Application for appointment.

(4) The Judge shall thereupon grant an appointment naming the time and place at which he will hear and determine the matter in dispute, and a copy of such appointment shall be served upon the Clerk of every other municipality interested at least 30 days before the date fixed by the Judge for hearing and determining the matter. Appointment by judge.

(5) At the time and place appointed the Judge shall hear the application and any municipal corporation interested may be represented by counsel thereon and the Judge shall hear the parties and any evidence submitted by them on oath touching the matter in dispute. Hearing.

(6) The Judge shall determine all matters arising out of such dispute, including the liability to erect or maintain the bridge and the proportion which each municipality interested shall contribute to the construction and maintenance of the bridge. What judge to determine.

(7) The order of the Judge shall be registered in the Registry Office for the registry division or for each of the registry divisions in which the bridge is or is to be situate and from and after such registration and subject to the appeal hereinafter provided the bridge shall be built or maintained and kept in repair by the corporation or by each of the corporations declared by the order to be liable therefor in the manner and in the proportions fixed by the Judge's order. Registration of order.

(8) The order of the Judge shall be enforceable in the like manner as an order of mandamus. Enforcement of order.

(9) An appeal shall lie from the order of the Judge to The Ontario Railway and Municipal Board and the proceedings thereon and incidental thereto shall be governed as nearly as may be by the provisions of *The Ontario Railway and Muni-* Appeal from order. 6 Edw. VII., c. 31.

cipal Board Act, 1906, and the regulations made thereunder.

Order to be in force for five years.

(10) The order of the Judge, or in case of an appeal, the order of the Ontario Railway and Municipal Board, shall remain in force for a period of five years from the date thereof, but this subsection shall not apply to an order determining that the bridge is one within the exclusive jurisdiction of the county.

Materials to be used in county bridges.

618*a*.—(1) Every bridge constructed by or under the jurisdiction and control of the corporation of a county shall be built of iron, steel or reinforced concrete and in accordance with standard specifications, prepared by the engineer of the Department of Public Works of Ontario.

Information to be furnished to county.

(2) It shall be the duty of such engineer to furnish the corporation of any county with such information as its council may require with reference to the construction of bridges in the county.

Debentures for county bridges.

7. The said Act is amended by adding the following as section 388*a*:

388*a*. Notwithstanding anything contained in this Act the council of any county shall from time to time by by-law provide for the issue of debentures repayable in 20 years in the manner provided by section 386 for the purpose of constructing or reconstructing the bridges in the county which have been assumed by the corporation or which it is the duty of the corporation to construct and maintain, and it shall not be necessary to obtain the assent of the electors to any by-law passed under this section.

No. 145.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

First Reading, February 20th, 1911.

Mr. HOYLE.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 146. 1911.

BILL

An Act respecting Purchases of Timber Licenses in Algonquin Park.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Algonquin Park Loan and Purchase Act.*

Loan of $500,000 authorized.

2. The Lieutenant-Governor-in-Council is hereby authorized to raise, by way of loan, a sum of money not exceeding Five Hundred Thousand Dollars ($500,000) for the purpose of purchasing the rights of licensees of timber limits in Algonquin Park, and for other purposes necessarily incidental thereto.

Term and rate of loan.

3. The aforesaid sum of money may be borrowed for any term or terms not exceeding forty years at a rate not exceeding four per centum per annum, and shall be raised upon the credit of the Consolidated Revenue Fund of Ontario, and shall be chargeable thereupon.

Bonds and stock for loan to be free of Provincial taxes.

4. All bonds and inscribed stock issued under the authority of this Act shall be free from all Provincial taxes, succession duty charges and impositions whatsoever.

8 Edw. VII., c. 12.

5. The Lieutenant-Governor-in-Council may provide for a special sinking fund with respect to the issue herein authorized, and such sinking fund may be at a greater rate than the one-half of the one per centum per annum on the amount of such debentures or stock, as specified in subsection 2 of section 4 of *The Provincial Loans Act.*

Order in Council confirmed.

6. The Order in Council, passed the 9th day of November, 1910, authorizing the purchase from the Munn Lumber Company of all its rights, timber licenses, and property inside and outside Algonquin Park and all acts done by the

Minister of Lands, Forests and Mines, pursuant to the said order, are ratified and confirmed, and the money expended upon such purchase shall be charged against the proceeds of the loan referred to in section 2 hereof.

Application of proceeds of debentures in purchasing rights of timber licenses.

7. The Lieutenant-Governor in Council is hereby authorized and empowered to expend the proceeds or any part thereof of the loan referred to in section 2 hereof in purchasing the rights of licensees of timber limits in Algonquin Park and do all such other acts as are necessarily incidental to such purchase or purchases; all such purchases shall be either previously authorized by Resolution of the Legislative Assembly or, when completed, shall be laid before the Legislative Assembly and confirmed by Resolution thereof.

No. 146.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Purchases of Timber Licenses in Algonquin Park.

First Reading, 20th February, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 147. 1911

BILL

An Act to amend the Lunacy Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Extension of provisions of 9 Edw. VII., c. 37, as to certain persons not declared lunatics.

1. The powers and provisions of *The Lunacy Act, 1909*, relating to management and administration, shall apply to every person not declared to be lunatic with regard to whom it is proved, to the satisfaction of the Court, that he is, through mental infirmity, arising from disease, age, or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs.

Imp. Act 53 and 54 Vict., c. 5, s. 116 (1 d.)

Section 1 to apply persons not lunatics.

2. The provisions of section 1 shall apply although the person is not a lunatic.

Powers of committee, how exercised and by whom.

3. Such of the powers of *The Lunacy Act, 1909*, as are made exercisable by the committee of the estate under order of the Court shall be exercised in the cases provided for by section 1, by such person, in such manner and with or without security, as the Court may direct, and any such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the Court.

Imp. Act 54 and 55 Vict., c. 65, s. 27 (4).

Person appointed to be subject to jurisdiction of court.

4. Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the Court as if such person were the committee of the estate of a lunatic so declared.

Application of 9 Edw. VII., c. 37, s. 12.

5. Section 12 of *The Lunacy Act* shall apply to the cases provided for by section 1, and the person in respect of whom the order is made, and any person aggrieved or affected by the order shall have the like right to appeal therefrom as is provided for by section 6 of that Act.

No. 147.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Lunacy Act.

First Reading, 20th February, 1911.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 148. 1911

BILL

An Act to amend The Ontario Insurance Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 80 of *The Ontario Insurance Act* is amended by adding at the beginning thereof the words "Except as hereinafter provided in Statutory Condition No. 17, section 168 of this Act." R. S. O., c. 203, s. 80, amended.

2. Subsection 1 of section 91 of the said Act is hereby repealed and the following substituted therefor:— Sec. 91 (1) amended.

(1) Every Provincial corporation shall furnish to each member annually a verified summary statement in a form approved by the Registrar showing as the result of such audit or audits the corporation's actual assets, liabilities, receipts and expenditures, and the state of the insurance fund or funds, which summary statement shall contain a summary of the statement filed in accordance with section 96 of this Act, and a copy of such summary statement signed and certified by the President and Secretary and by the auditors shall be filed in the office of the Registrar with the statement required by section 96 of this Act. Summary statement.

(1b) In the case of a fire insurance company (other than those transacting a purely non-hazardous mutual business) a copy of this summary statement certified to and approved by the Inspector together with a copy of such certification and approval shall be published in at least one daily paper in the province on or before the fifteenth day of February in each and every year and proof of publication shall be filed with the Registrar on or before the fifth day of March next following, in default of which the Registrar shall have such publication made at the expense of the company; and no statement purporting to show the financial condition of any such company shall be published which does not con-

tain in equally conspicuous type the statement hereby required. Such publication shall be held to include policies, receipts, circulars, signs or other means by which public announcements are made.

Sec. 96 (1) amended.

3. Section No. 96, subsection 1, is amended by adding after the word "Act" in the eighth line the following:

Annual statement.

"Which statements in case of a fire insurance company other than those transacting a purely non-hazardous mutual business shall show as a liability the actual unearned premiums on all business in force on the 31st day of December of each year, and in the computation of such assets there shall be included only such proportion of the capital stock as has been actually paid up in cash; and no assets shall be valued at an amount beyond their market value; and there shall not be included unpaid balances owing by agents or other companies which are over three months due or bills receivable on account of same."

Sec. 144 (a) amended.

4. Section 144 (*a*) is repealed and the following substituted therefor:

Copy of application to be attached to policy.

(*a*) In order that the proposal or application of the assured may be consistent with the contract it is obligatory for the insurer to have a true copy of the application attached to the policy and the Court shall determine how far the insurer was induced to enter into the contract by any material misrepresentation contained in the said application or proposal, and this application shall not contain any agreements or warranties contrary to the provisions of the Standard Policy hereinafter provided for.

Sec. 145 repealed.

5. Section 145 of the said Act is hereby repealed.

Sec. 167 (2) repealed.

6. Section 167, subsection 2, is hereby repealed.

Sec. 168 amended.

7. Section 168 is repealed and the following substituted therefor:—No fire insurance corporation, its officers or agents shall make, issue or deliver for use any fire insurance policy or the renewal of any such policy on property in this Province other than as shall conform in all particulars as to blanks, size of type, context, provisions, agreements, and conditions with the standard form herein set forth, the blanks for which may be filled in in print or in writing and no other different provision, agreement, condition or clause shall be in any manner made a part of such contract or policy or endorsed thereon or delivered therewith except as herein provided.

Form of policy prescribed.

First: It may print on its policy;

The name of the corporation, its location and place of business, date of its incorporation or organization, the amount of its paid-up capital, whether it is a stock or mutual corporation, the names of its officers or agents, the number and date of the policy, and if issued through a manager or agent the words: "This policy shall not be valid until countersigned by the duly authorized manager (or agent) of the corporation at .....

What may be printed on policy.

Second. It may print or use in its policy:—

Printed or written forms of description and specification or schedules of the property covered by any particular policy, and any other matter necessary to clearly express all the facts and conditions of insurance on any particular risk not inconsistent with or a waiver of any of the conditions or provisions of the statutory conditions herein provided for, including permits for the use and storage of gasoline and other extra hazardous products or materials, for repairs and improvements and for other changes and conditions of hazard and interest permitted by the company with such limitations as are not contrary to or inconsistent with the Statutory Conditions.

Third. It may print or use in its policy, with the approval of the Inspector of Insurance, if the same is not already included in such standard form, any provisions which any such corporation is required by law to insert in its policies, not in conflict with the provisions of such standard form. Such provisions shall be printed apart from the other provisions, agreements or conditions of the policy under a separate title as follows: "Provisions required by law to be stated in the policy."

Fourth. The name with the word "agent" or "agents" and place of business of any insurance agent or agents, either by writing, printing, stamping or otherwise, may be endorsed on the outside of such policies.

Fifth. It may print or use in its policy such clauses or riders as may be agreed upon between the assured and the company by application in writing for the same signed by the assured and by which for a consideration of a reduction of rate duly set forth in the clause the assured agrees to comply with certain conditions which shall be in force so far as, by the Court or Judge before whom a question is tried relating thereto, they shall be held to be just and reasonable

Special conditions.

to be exacted by the company; and it shall be essential to the validity of any such clause that the assured has had and shall have at any time before the happening of a loss the option of accepting a policy without such condition upon the payment of the higher rate of premium set forth in the clause.

Application for special condition.

Sixth. Such application relating thereto shall be made substantially in the following form:—

hereby request that there be attached to policy number of the insurance company the following (coinsurance clause) to wit:

In consideration of the reduction of the rate of insurance from per cent. per annum to per cent. per annum it is hereby agreed that the assured shall maintain insurance during the life of this policy upon the property hereby insured to the extent of at least per cent. of the actual cash value thereof, and that failing so to do, the assured shall be a co-insurer to the extent of the difference between the amount insured and the said per cent. of the cash value, and to that extent shall bear his, her or their proportion of any loss. This clause shall apply to items insured under this policy, namely, numbers

Applicant.

Signature of applicant required.

Seventh. This application may be signed by the assured or by his duly authorized attorney for that purpose, but such attorney shall not be an officer, employee or agent of the company.

Requirement as to conditions.

Eighth. Such clauses shall conform to the following conditions:

(1) They shall be printed or written in ink of a conspicuously different colour from the policy.

(2) They shall be headed conspicuously (and if printed, in type not less than 12 point) with a name of the clause which shall be descriptive of its character.

(3) They shall be prefaced with the words:—
"This clause is in force so far as, by the Court or Judge before a question is tried relating thereto, it shall be found to be just and reasonable to be exacted by the company."

(4) They shall set forth the consideration and terms of the clause in the same form as in the application.

(5) They shall conclude with the words: "Attached to and forming part of Policy No. of (then follows the name of the company).

(6) They shall be dated and signed by the duly authorized agent of the company as follows:

Dated at this day of 19 .

Agent.

Ninth. Blank forms for use in case of transfer of title, of removal of property, of surrender for cancellation, of receipt for loss, not inconsistent with the Statutory Conditions may be printed on the policy.

Tenth. The Standard Form shall be plainly printed with no portion thereof or any clause or permit attached thereto in smaller than long primer type and shall be as follows, to wit: Standard form of policy.

No. ..... $.....

(Corporate name of the company or association, its principal place or places of business.)

In consideration of dollars, to be paid by the insured hereinafter named, the receipt whereof is hereby acknowledged, does insure and legal representatives, against loss or damage by fire to an amount not exceeding dollars for the term of from the day of 19 at noon to the day of 19 at noon on the following described property while located and contained as described herein

(Description of property insured.)

(All clauses and permits shall be here attached.)

Ontario Statutory Conditions.

1. If any person or persons insures his or their buildings or goods, and causes the same to be described otherwise than as they really are, to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the representation or omission is made; Statutory conditions. Misrepresentation or omission.

but when the application is made out by the company's agent, such application shall be deemed to be the act of the company.

Policy to be deemed as applied for unless variation indicated.

2. After application for insurance it shall be deemed that any policy sent to the insured is intended to be in accordance with the terms of the application, unless the company points out in writing by an endorsement attached to the policy the particulars wherein the policy differs from the application.

Change of property.

3. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent; and the company when so notified may return the premium for the unexpired period and cancel the policy, or may demand in writing an additional premium, which the assured shall, if he desires the continuance of the policy, forthwith pay to the company; and if he neglects to make such payment forthwith after receiving such demand, the policy shall be no longer in force.

Assignment without permission to avoid policy.

4. If the property insured is assigned without a written permission endorsed hereon by an agent of the Company duly authorized for such purpose, the policy shall thereby become void; but this condition does not apply to change of title by succession, or by the operation of the law, or by reason of death.

Policy in favour of mortgagee.

(*a*) If this policy is made payable to a mortgagee or is assigned with the assent of the company as collateral security, no act or default of any other person other than such mortgagee or assignee or his agents or those claiming under him, shall affect the right of such mortgagee or assignee to recover in case of loss.

Proviso.

(*b*) Provided that the said mortgagee or assignee shall at once notify this company of any change of ownership or increase of the hazard that shall come to his knowledge or that he shall on demand, pay according to the established scale of rates for any increase of hazard not paid for by the assured, and whenever this company shall pay to the said mortgagee or assignee any sum for loss under this policy, for which no liability exists as to the mortgagor, assignor, or owner, and if this company shall elect by itself or with others to pay the mortgagee or assignee the full amount secured by such mortgage or other securities, then the mortgagee or assignee shall assign and transfer to the company or companies upon such payment the said mortgage or other securities, together with the note or debts thereby secured.

Partial loss.

5. Where property insured is only partially damaged, no abandonment of the same will be allowed unless by the con-

sent of the company or its agent; and in case of removal of property to escape conflagration, the company will contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the assured, and that part of this policy in excess of its proportion of any loss and of the value of the property remaining in the original location, shall, for the ensuing seven days only, cover the property so removed in the new location or locations in the proportion that the value in any one such new location bears to the value in all such new locations.

Money securities, etc., not included in risk.

6. Money, bullion, books of account, securities for money, evidences of debt or title, scientific cabinets and collections and curiosities are not insured unless mentioned in the policy.

Works of art.

7. Except in establishments manufacturing or dealing in the same, paintings, sculptures, works of art, scientific instruments and clocks are not insured to an amount exceeding ($25.00) Twenty-five Dollars on any one article unless otherwise specified.

Further insurance without consent of company.

8. The assured shall not be entitled to recover for loss in excess of seventy-five per cent. of the value of the property insured if he now has or shall hereafter effect any other insurance on the said property without the assent of the company.

Apportionment of loss among insurers.

9. In the event of there being any other insurance in effect on the property herein described at the time of the happening of any loss, then this company shall only be liable for the payment of a rateable proportion of such loss or damage or of such amount as the assured shall be entitled to recover under Statutory Condition No. 8.

Non-liability for certain losses.

10. The company is not liable for the losses following, that is to say:

Non-ownership.

(*a*) For the loss of property owned by any other party than the assured unless the interest of the assured is stated in or upon the policy.

Invasion, riot, etc.

(*b*) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power.

Defective chimneys, ashes, unsafe stoves.

(*c*) Where the insurance is upon buildings or their contents, for loss caused by the want of good and substantial brick or stone chimneys; or by ashes or embers being deposited, with the knowledge and consent of the assured, in

wooden vessels; or by stoves or stove pipes being, to the knowledge of the assured, in an unsafe condition or improperly secured.

Fire heat process.

(*d*) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary.

Loss while building undergoing repairs.

(*e*) For loss or damage occurring to buildings or to their contents while the buildings are being repaired by carpenters, joiners, plasterers or other workmen, and in consequence thereof, unless permission to execute such repairs has been previously granted in writing, signed by a duly authorized agent of the company, but ordinary alterations and repairs for a period not exceeding fifteen days at any one time are allowed without such permission.

Loss while petroleum, etc., stored in building.

(*f*) For loss or damage occurring while petroleum or rock, earth or coal oil, camphene, gasoline, burning fluid, benzine, naphtha or any liquid products thereof or any of their constituent parts, is or are stored or kept, within the knowledge or control of the assured, in the building insured or containing the property insured unless permission is given in writing by the company; but in dwellings a quantity not exceeding five gallons of refined coal oil and ten pounds of gunpowder, and in mercantile and manufacturing establishments not exceeding five barrels of refined coal oil and one gallon in all of gasoline and benzine and fifty pounds of gunpowder and two barrels of lubricating oil (not being crude petroleum or oil of less specific gravity than required by law for illuminating purposes) is permitted without notice.

Gas explosion.

11.—(*a*) The company will make good loss caused by explosion of coal gas or natural gas in a building not forming part of gas works and loss by fire caused by any other explosion or by lightning.

Lightning.

(*b*) The company will make good any direct loss or damage by lightning to the property insured (meaning thereby the commonly accepted use of the term lightning, and in no case to include loss or damage by cyclone, tornado or wind storm) whether fire ensues or not, but if dynamos, exciters, lamps, switches, motors or other electrical appliances or devices are insured it is made a condition of this contract.

Electric lighting and machines.

(*c*) That any loss or damage to them, such as may be caused by lightning or other electrical currents, artificial or natural, is expressly excluded, and that the company is

liable only for such loss or damage to them as may occur from resultant fire or fire originating outside the machines themselves.

Proof of loss.

12. Proof of loss must be made by the assured, although the loss be payable to a third party.

Claimant to supply certain proofs of loss.

13. Any person entitled to make a claim under this policy is to observe the following directions:—

(*a*) He is forthwith after loss to give notice in writing to the company.

(*b*) He is to deliver, as soon after as practicable, as particular an account of the loss as the nature of the case permits;

(*c*) He is also to furnish therewith a statutory declaration, declaring: That the said account is just and true; when and how the fire originated, so far as the declarant knows or believes; that the fire was not caused through his wilful act or neglect, procurement, means or contrivance; the amount of other insurances; all liens and incumbrances on the subject of insurance; the place where the property insured, if movable, was deposited at the time of the fire.

(*d*) He is in support of his claims, if required and if practicable, to produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers; to furnish copies of the written portion of all policies; to separate as far as reasonably may be the damaged from the undamaged goods, and to exhibit for examination all that remains of the property which was covered by the policy.

(*e*) He is to produce, if required, a certificate under the hand of a magistrate, notary public, commissioner for taking affidavits, or municipal clerk, residing in the vicinity in which the fire happened, and not concerned in the loss or related to the assured or sufferers, stating that he has examined the circumstances attending the fire, loss or damage alleged, and that he is acquainted with the character and circumstances of the assured or claimant, and that he verily believes that the assured has, by misfortune and without fraud or evil practice, sustained loss and damage on the subject assured to the amount certified.

Proof by agent of assured.

14. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for.

Effect of fraud or false statement in proof.

15. Any fraud or false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim.

Arbitration in case of differences.

16. If any differences arise as to the value of the property insured, of the property saved, or of amount of the loss, such value and amount and the proportion thereof (if any) to be paid by the company shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they canot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the persons so chosen, or on their failing to agree, then by the county judge of the county wherein the loss has happened; and such reference shall be subject to the provisions of *The Arbitration Act*; and the reward shall, if the company is in other respects liable, be conclusive as to the amount of the loss and proportion to be paid by the company; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

Loss to be paid within 10 days from completion of proof.

17. The loss shall be payable within ten days after the completion of the proofs of loss, unless the company furnishes the assured with a statutory declaration made by one of its executive officers or agents declaring that the company has made all diligent efforts and that a longer time is necessary to investigate the character and circumstances of the fire and of the claim, in which case payment may be deferred to sixty days after completion of the proofs of loss, but interest shall then be paid at the rate of six per cent. per annum on the amount of the loss from the date of the loss until the date of payment of the loss.

Right of company to rebuild, etc.

18. The company, instead of making payment, may repair, rebuild or replace the property damaged or lost, giving notice of their intention within fifteen days after receipt of the proofs herein required, and shall thereupon enter upon said premises, and proceed to rebuild or replace or repair the property with reasonable expedition.

Right of company to cancel insurance.

19. The insurance may be terminated by the company by giving notice to that effect, and, if on the cash plan, by tendering therewith a rateable proportion of the premium for the unexpired term, calculated from the termination of the notice; in the case of personal service of the notice, five days' notice, excluding Sunday, shall be given. Notice may be given by any company having an agency in Ontario by registered letter addressed to the assured at his last post-

office address notified to the company, or where no address is notified, then to the post-office of the agency from which the application was received, and where such notice is by letter, then seven days from the arrival at any post-office in Ontario shall be deemed good notice; and the policy shall cease after such tender and notice aforesaid, and the expiration of the five or seven days, as the case may be.

Right of assured to terminate insurance.

19.—(*a*) The insurance, if for cash, may also be terminated by the assured by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid.

Waiver of condition.

20. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the company, unless the waiver is clearly expressed in writing, signed by an agent of the company.

Agent of company—who to be deemed.

21. Any agent or officer of the company who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the company for the purpose; and the delivery of any interim receipt or policy or renewal receipt by an agent of the company to the assured, or his agent, shall, in every action or proceeding to recover for loss or damage by fire be conclusive evidence of the payment of the premium referred to in such policy or receipt; provided, however, that nothing herein contained shall prevent the company from recovering the amount of any premium actually owed by the insured, and provided that, in any such action, the company may show that any such premium has not in fact been paid, for the purpose of deducting the amount of such unpaid premium from the amount payable under any such interim receipt or policy.

Proviso.

Limitation of actions against company.

22. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy shall be absolutely barred, unless commenced within the term of one year next after the loss or damage occurs.

Notices to company may be by mail.

23. Any written notice to a company for any purpose of the statutory conditions, where the mode thereof is not expressly provided, may be by letter delivered at the head office of the company in Ontario, or by registered post letter addressed to the company, its manager or agent, at such head office, or by such written notice given in any other manner to an authorized agent of the company.

Right of insurer to survey and examine after loss.

24. After any loss or damage to insured property the insurer has, by a duly accredited agent, an immediate right of entry and access sufficient to survey and examine the property, and make an estimate of the loss or damage, but the insurer is not entitled to the disposition, control, occupation, or possession of the insured property, or of the remains or salvage thereof, unless the insurer undertakes reinstatement, or accepts abandonment of the property.

Assured to protect property after damage.

25. After any loss or damage to the insured property it is the duty of the assured, when, and as soon as practicable, to secure the insured property from damage, or from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer when such separation has been made, and thereupon the insurer shall be entitled to entry and access sufficient to make an appraisement or particular estimate of the loss and damage.

Joint survey and appraisement of loss.

26. At any time after the loss or damage the insurer and the assured may, under a term of the contract of insurance or by special agreement, make a joint survey, examination, estimate, or appraisement of the loss or damage, in which case the insurer shall be deemed to have waived all right to make a separate survey, examination, estimate or appraisement thereof.

In witness whereof the said (name of company) has caused this policy to be signed by its President and attested by its Secretary (or such officers as may be designated) at its head office in

Dated at . . this . day of 19

Secretary. President.

This policy shall not be valid unless signed by the duly authorized manager or agent of the company at

Signed this day of 19

Agent at

Sec. 177 amended.

8. Section 177 is repealed and the following substituted therefor:—

Power to suspend or cancel license of company.

177.—(1) If the annual statement required in sections 91 and 96 show that the total liabilities of the company exceed its total cash assets; or if it appears to the Inspector that the assets of any company are insufficient to justify its con-

tinuance of business, or that the company is unsafe for the public to effect insurance with, he shall make a special report on the affairs of the company to the Minister.

(2) After full consideration of the report and a reasonable time being given to the company to be heard, and if, after such further enquiry and investigation (if any) as he may see proper to make, the Minister reports to the Lieutenant-Governor in Council that he agrees with the Inspector in the opinion expressed in his report, then, if the Lieutenant-Governor in Council also concurs in such opinion, an Order-in-Council may issue, suspending or cancelling the license of the company and prohibiting the company from doing any further business, and thereafter it shall not be lawful for the company to do any further business in Ontario, until the suspension or prohibition is removed by the Lieutenant-Governor in Council.

(3) No company shall enter into any contracts of insurance or reinsurance while its total liabilities exceed its actual assets without the consent of the Lieutenant-Governor in Council, and in the computation of such assets there shall not be included unpaid balances owing by agents or other companies to the company over three months due, or bills receivable on account thereof, and stocks, bonds and debentures held by the company and office furniture, maps and plans and real estate shall not be valued at an amount beyond their market value.

(4) If the statement required herein shows that the paid-up capital stock of the company is impaired, then no dividends or bonus shall be declared or paid to any shareholder or director or officer, and no dividend or bonus shall be declared or paid that will impair the paid-up capital, and the directors or officers concurring in declaring or paying any dividend or bonus contrary to the provisions of this section shall be individually liable to the company for the full amount of such dividend or bonus.

9. Section 180 of the said Act is hereby repealed and the following substituted therefor:— Sec. 180 amended.

180.—(1) The Inspector of Insurance shall have general supervision of the business of insurance within the Province, and shall see that the laws relating to the conduct thereof are enforced and obeyed. Inspector of Insurance to supervise insurance business.

(2) The Inspector of Insurance, or any officer under him, shall not be interested as shareholders, directly or indirectly, with any insurance company doing business in Ontario.

No. 148.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Insurance Act.

First Reading, 21st day of Feb., 1911.

Mr. Clark
(Bruce).

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 149. 1911.

BILL

An Act to amend the Liquor License Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsections 4, 5 and 6 of section 24 of the Act passed in the 6th year of the reign of His late Majesty King Edward VII., Chaptered 47, intituled *An Act to amend the Liquor License Laws,* are amended by striking out of said subsections the word "three-fifths" wherever it occurs therein and by substituting therefor in every such case "a majority." 6 Edw. VII. c. 47, s. 24, subs. 4, 5 and 6 amended. Majority required on local option by-laws.

2. Subsection 6 of section 24 of the said Act is further amended by striking out all the words after the word "thereafter" in the eleventh line of the said subsection. 6 Edw. VII. c. 47, s. 24, subs. 6 amended.

No. 149.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Liquor License Act.

First Reading, 21st day of Feb., 1911.

Mr. PROUDFOOT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 150. 1911.

BILL

An Act to amend the Consolidated Municipal Act of 1903.

HIS MAJESTY by, and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 547 of *The Consolidated Municipal Act of 1903*, is amended by adding thereto the following words and paragraph: 3 Edw. VII., c. 19, s. 547 amended.

7. "The Council of a township may on the petition of 25 "ratepayers pass a by-law or by-laws for purchasing and pro- "curing the necessary material for operating, and for operat- "ing spraying machines for the purpose of spraying fruit "trees within the municipality and for regulating the user of "the same." Purchase of spraying machines.

No. 150.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Consolidated Municipal Act, 1903.

First Reading 21st February, 1911.

Mr. PROUDFOOT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 151. 1911.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 389 of *The Consolidated Municipal Act, 1903*, is amended by adding the following subsection: 3 Edw. VII., c. 19, s. 389 amended.

(4) A city or town may at any meeting of the council without submitting the same to the electors, pass a by-law or by-laws for borrowing by the issue of debentures payable within twenty years, such sums of money as may be required for erecting, building, enlarging, renewing or furnishing a registry office, and for acquiring such land as may be necessary or convenient for the purposes thereof or such sums as may be required to liquidate their share of the cost thereof. Power to issue debentures for erecting enlarging, and furnishing registry office, etc.

2. Subsection 1 of section 389 of the said Act is amended by striking out the first six lines and substituting therefor the following: "except where otherwise provided by this or any other Act every by-law for raising." 3 Edw. VII., c. 19, s. 389, subs. 1, amended. By-laws requiring assent of electors—exceptions.

3. Subsection 14*a* of section 583 of the said Act, as enacted by section 27 of *The Municipal Amendment Act, 1906*, is amended by striking out the words "or peanuts" in the first and second lines, and substituting therefor the words "nuts, ice-cream, refreshments, or condiments." 3 Edw. VII., c. 19, s. 583, subs. 14a, amended. By-laws prohibiting sale of nuts, etc., in public streets.

No. 151.

3rd Session, 12th Legislature.
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

1st Reading, 21st day of February, 1911.

Mr. MACDIARMID.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 152. 1911.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 636 of *The Consolidated Municipal Act, 1903*, is amended by adding the following subsection: 3 Edw. VII. c. 19, s. 636 amended.

(2) The Ontario Motor League shall have the same powers with reference to motor vehicles and persons travelling on or in them as the Canadian Wheelsmen's Association has under subsection (1) with reference to bicycles and travellers on bicycles. Power of Ontario Motor League.

No. 152.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

First Reading, 21st day of Feb., 1911.

Mr. GOODERHAM.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 153. 1911.

BILL

An Act respecting the Temiskaming and Northern Ontario Railway.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Salary of Land Commissioner.

1. The amount which may be paid by the Temiskaming and Northern Ontario Railway to the Commissioner in charge of the Land Department of such railway is increased from the sum of $1,500 per annum to the sum of $1,750 per annum, in addition to the honorarium which may be paid to such Commissioner under *The Temiskaming and Northern Ontario Railway Act.* 7 Edw. VII. c. 18.

7 Edw. VII. c. 18, s. 3, ss. 2 amended.

2. Subsection 2 of section 3 of *The Temiskaming and Northern Ontario Railway Act,* as enacted by section 1 of the Act passed in the 9th year of the reign of His late Majesty King Edward the VII., Chaptered 18, is amended by striking out the figures "$1,500" in the last line and inserting in lieu thereof the figures "$1,750."

No. 153.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Temiskaming and Northern Ontario Railway.

First Reading, 21st day of Feb., 1911.

Mr. Reaume.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty

No. 154. 1911.

BILL

An Act to amend The Municipal Act.

1. Section 76 of *The Consolidated Municipal Act, 1903*, is hereby amended by striking out clauses (*b*) and (*c*) of subsection 1. 3 Edw. VII., c. 19, s. 76, amended.

No property qualification required of candidates in cities and towns.

No. 154.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

First Reading, 21st day of Feb., 1911.

Mr. Brewster.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 155. 1911.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sub-section 1 of Section 86, of *The Consolidated Municipal Act, 1903,* is amended by striking out the figures "$400" in the fourth line of the paragraph designated "thirdly," and substituting therefor, the figures "$200." 3 Edw. VII. c. 19, s. 86, sub-sec. 1 amended. Reduction of qualification of income voters.

2. Section 87 of the said Act is amended by striking out the 6th, 7th, and 8th lines thereof and substituting the following therefor: Sec. 87 amended. Reduction of property qualification of voters.

In Cities and Towns $200.00

3. Sub-section 3a of section 129 of the said Act is amended by striking out the word "statutory" in the 6th line thereof and inserting in lieu thereof, the word "solemn." Sec. 129 (3a) amended

4. Sub-section 7 of Section 277, of the said Act is amended by inserting after the word "purpose" in the fourth line thereof, the words "under this Act." Sec. 277 (7) amended. Reversing action of Board of Control.

5. The said Act, is amended by inserting therein the following section: 3 Edw. VII., c. 19, amended.

534*b*. Wherever any city having a population of 100,000 inhabitants or over is entitled to expropriate land in virtue of any power conferred upon it by this Act, it may acquire any parcel or parcels of land any part of which may be within 200 feet of the limit of any proposed street extension, widening, opening or straightening, or of any park or playground, notwithstanding that no part of such parcel is required for the primary object of the proceedings, and it may afterwards sell and dispose of such parcel or parcels of land. Expropriation of more land than required for widening streets, etc.

Sec. 542 amended. Regulating alterations and repair of buildings.

6. Clause (a) of paragraph 1 of Section 542 of the said Act is amended by inserting after the word "of" the words "or alterations and repairs to."

Sec. 583, par. 10 amended Preventing and regulating moving picture shows.

7. Sub-section 10, of Section 583 of the said Act is amended by inserting after the word "alleys" in the third line thereof, the words "moving picture shows where vaudeville performances are introduced."

Sec. 669 (5) amended. Statutory declaration as to owner benefited.

8. Sub-section 5, of Section 669, of the said Act is amended by adding at the end thereof the words " or may satisfy the clerk of the municipality by statutory declaration or otherwise as to the true owner of any real property to be benefited by the construction of any such work, or improvement."

Sec. 677 amended. Grading or re-surfacing as a local improvement.

9. Section 677 of the said Act, as amended by the Act passed in the sixth year of the reign of His late Majesty, King Edward VII., chaptered 34, section 38, is amended by adding after the word "village" in the sixth line thereof the words "or may grade any street or re-surface any pavement," and by inserting after the word "sidewalk" in the eighth line thereof, the words "grading, re-surfacing."

Sec. 682 amended.

10. Section 682, of the said Act is amended by adding thereto the following sub-section:

Assent of electors not required for certain works.

(4). Nothing in this Section contained shall require the assent of the electors to any expenditure for the laying of water service mains and the installation of improvements in electric lighting as local improvements by special assessment upon the property immediately benefited thereby."

Sec. 679a amended.

11. Section 679*a* of *The Consolidated Municipal Act, 1903,* is amended by adding thereto the following Sub-section:

Guarantee from City Engineer.

(2). In all municipalities where such guarantee is required, and where the City Engineer, or other municipal authority under the by-law of such municipality, may tender for the work in competition with contractors, a like guarantee shall in all instances be required by the municipality from the City Engineer, or other municipal officer so tendering, and such engineer or officer shall in each and every case, add to the amount of his tender such sum or sums of money as may be deemed necessary to cover the cost of such maintenance.

3 Edw. VII., c. 19, amended.

12. *The Consolidated Municipal Act, 1903*, is amended by inserting therein the following section:

Sentence to gaol without option of fine for certain offences

702*a*. By-laws may be passed by councils of counties, townships, cities, towns and villages providing that in the case of persons convicted of breach of any of the by-laws of the Corporation passed for the purpose of preventing vice, drunkenness, immorality and indecency, and for suppressing disorderly houses and houses of ill-fame, the convicting Magistrate may in his discretion, in lieu of a fine, sentence such offender to detention either in the common gaol, house of correction, lock-up house, or industrial farm of the county or municipality, or in any provincial prison or penitentiary, there to be kept until the removal of such person is ordered by the Lieutenant-Governor in Council to any other safe place of keeping, and that such offender shall remain there, or in such other place of safe keeping, as the Lieutenant-Governor in Council from time to time orders, until the discharge of such offender is ordered by the Lieutenant-Governor in Council, or by the convicting Magistrate.

No. 155.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Act.

First Reading, 21st February, 1911.

Mr. McPherson.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 156. 1911

BILL

An Act to amend The Local Municipal Telephone Act, 1908.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

8 Edw. VII., c. 49, s. 15, amended.

Power given to Ontario Railway Board to superintend construction.

1. Section 15 of *The Local Municipal Telephone Act, 1908* is amended by striking out the words "the Lieutenant-Governor in Council may authorize an officer of the Department of Public Works or of the Department of Agriculture, or any other officer at the seat of Government at Toronto," and substituting therefor the words "the Ontario Railway and Municipal Board shall have full power and authority."

Board of Commissioners.

2. The said Act is amended by adding the following section 13*a*:

(1) Upon a petition of a majority of the subscribers the Council shall place the system under the supervision of a Board of three commissioners, who shall be responsible for the efficient construction, maintenance and operation of all plant and equipment comprising the said system and all extensions thereof.

(2) The Commissioners shall be elected at a general meeting of the subscribers duly called for the purpose.

(3) The subscribers in general meeting assembled may make By-laws not contrary to law or to the said Act or to this Act, to regulate:—

(*a*) The time at which and place where the meetings of the subscribers shall be held; the calling of meetings of subscribers, and the procedure in all things at such meetings.

(*b*) The term of service, manner of election, duties and remuneration of the Commissioners.

(*c*) The conduct of the affairs of the system.

(4) The members of the council shall have the right to attend all meetings of the subscribers and shall be entitled to vote thereat.

(2) In the event of the subscribers failing to petition the Council as provided in subsection (1), the supervision of the system shall remain in the control of the Council, which shall have full power and authority to employ such persons as it may decide to be necessary for the efficient construction, maintenance and operation of the said system, and to make all necessary expenditures in connection therewith.

(3) Nothing contained in this section shall be held to vary or interfere with the rights of the initiating Municipality in regard to the levying of any special rate or the collection of all moneys which may from time to time be due to the initiating Municipality from the subscribers for repayment of principal and interest or the cost of operation and maintenance as provided in the said Act.

No. 156.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Local Municipal Telephone Act, 1908.

First Reading, 22nd February, 1911.

Mr. CHARTERS.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 157. 1911

BILL

An Act to amend the Ontario Telephone Act, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Ontario Telephone Act, 1910,* is amended by adding the following sections: 10 Edw. VII. c. 84, amended.

Standard conditions and specifications for construction, etc.

(*a*) The Board may prescribe standard conditions and specifications for the construction and equipment of all telephone systems within the Legislative jurisdiction of Ontario, and may make such orders for the maintenance thereof as the Board shall from time to time decide to be necessary or desirable. Provided, however, that such standard conditions or specifications shall not apply to the existing plant or equipment of any telephone system in course of construction, or being operated by any company or person prior to June 30th, 1911, but only to the renewal or replacement thereof whenever such renewal or replacement may become necessary as a result of depreciation or obsolescence. Proviso.

(*b*) In prescribing the said conditions and specifications the Board shall take into consideration only such standards as in general practice may have been found necessary for the protection of life and property and for the provision of an efficient service to the public without regard to any particular type of equipment or apparatus.

Assistance to applicants.

2. The Board may, whenever in its judgment it shall appear that such a procedure is desirable or necessary in the public interest, render to any company or person requesting the same, such advisory, supervisory, or other assistance respecting the construction, management and operation of telephone systems, as the Board may deem advisable, and may fix the terms and conditions under which any such assistance shall be given.

Examination of and report upon existing systems.

3. The Board may, whenever in its judgment it shall appear that such a procedure is desirable or necessary for the purpose of carrying into effect any of the provisions of the

said Act, appoint or direct any person to examine and report upon the construction, operation or management of any telephone system within the Legislative jurisdiction of Ontario, and for this purpose such person shall have full power and authority at all reasonable hours to enter any building, office, or other premises belonging to or connected with any such system and to examine and check all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to any such system and to examine the switchboards, instruments, toll stations and all other property of whatsoever nature which belongs to or forms a part of such system.

Furnishing reports, etc.

4. Every company or person operating a telephone system or systems within the Legislative jurisdiction of Ontario shall on or before the first day of January in each year, or at such other times as the Board may require, furnish the Board, in such form as it shall prescribe, with such statements, reports and returns respecting the cost, receipts, expenditure, operation, management or equipment of such system or systems as the Board may decide to be desirable or necessary.

Interchange of service.

5. Notwithstanding anything in any Act contained, if in the opinion of the Board it becomes necessary or desirable for the purpose of effecting an interchange of service between two or more telephone systems or lines, to erect poles or wires upon the roads or highways of any village or township municipality beyond the limits of the municipality in which one or either of such telephone systems is located, the company or person operating such system shall have the right to erect such poles and wires along the said roads or highways upon such terms and conditions as may be agreed upon between the Council of the said village or township municipality and the said company or person, and in case the said Council and company or person are unable to agree, then upon such terms and conditions as shall be prescribed by the Board.

Terms.

Prohibition of sales or transfers of systems without consent of Lieutenant-Governor in Council.

6. Notwithstanding anything in any Act contained, no company or person or persons owning a controlling interest in any telephone system within the Legislative jurisdiction of Ontario, shall sell or transfer such system or controlling interest therein to, or amalgamate with, or enter into any agreement or arrangement which shall, in effect, transfer the ownership or control of such system or controlling interest therein, to any company or corporation which has been declared to be a work for the general advantage of Canada or which is not within the Legislative jurisdiction of Ontario, until the Lieutenant-Governor in Council has approved of such sale, transfer, amalgamation, agreement or arrangement.

No. 157.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Ontario Telephone Act, 1910.

First Reading, 22nd February, 1911.

Mr. CHARTERS.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 158. 1911

BILL

An Act to amend the Ontario Election Act and the Consolidated Municipal Act, 1903.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Female suffrage.

1. Notwithstanding anything contained in *The Ontario Voters' List Act, The Ontario Election Act,* and *The Consolidated Municipal Act, 1903,* every married woman, unmarried woman and widow of the age of twenty-one years and being a British subject, shall be entitled to vote at Municipal elections, and at elections for the Legislative Assembly of this Province, and enjoy all the rights and privileges of franchise and representation held by male voters, subject only to the provisions of residence in the Province and in the Municipality and Electoral District respectively, as in the case of male voters.

7 Edw. VII., c. 2.
8 Edw. VII., c. 3.
3 Edw. VII., c. 19.

No. 158.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Ontario Election Act, and the Consolidated Municipal Act, 1903.

First Reading, 22nd February, 1911.

Mr. STUDHOLME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 159. 1911

BILL

An Act to amend the Consolidated Municipal Act, 1903.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 331 of *The Consolidated Municipal Act, 1903*, is amended by striking out all that part of the subsection following the word "into" in the 13th line, and substituting in lieu thereof the words "until the assent of the electors has been obtained in conformity with the provisions of sections 338 and following sections of the said Act."

3 Edw. VII., c. 19, s. 331 (1), amended.

Exclusive franchise not to be granted without assent of electors.

No. 159.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Consolidated Municipal Act, 1903.

First Reading, 22nd February, 1911.

Mr. CHARTERS.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 160. 1911.

BILL

An Act to amend The County Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 22 of *The County Courts Act* are repealed and the following substituted therefor: 10 Edw. VII c. 30, s. 22 (1) and (2), amended.

Jurisdiction

(1) (*a*) Actions arising out of contract, expressed or implied, where the sum claimed does not exceed $2,000.

(*b*) Personal actions, except actions for criminal conversation and actions for libel, where the sum claimed does not exceed $1,000.

(*c*) Actions for trespass or injury to land where the sum claimed does not exceed $1,000, unless the title to the land is in question, and in that case also where the value of the land does not exceed $5,000 and the sum claimed does not exceed that amount.

(*d*) Actions for the obstruction of or interference with a right of way or other easement where the sum claimed does not exceed $1,000, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount.

(*e*) Actions for the recovery of property real or personal, including actions of replevin and actions of detinue where the value of the property does not exceed $1,000.

(*f*) Actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, where the sum claimed to be due does not exceed $2,000.

(*g*) Partnership actions where the joint stock or capital of the partnership does not exceed in amount or value $5,000.

(*h*) Actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount $2,000 and the estate of the testator does not exceed in value $5,000.

(*i*) All other actions for equitable relief where the subject matter involved does not exceed in value or amount $1,000, and

(*j*) Actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed $2,000.

Dispute of jurisdiction by defendant.

(2) Where a defendant intends to dispute the jurisdiction of the Court on the ground that the action, though otherwise within the proper competence of the Court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved, or, in the cases mentioned in clauses (*g*) and (*h*) of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value $5,000, or the estate of the testator exceeds in value $5,000, he shall in his appearance state that he disputes the jurisdiction of the Court and the ground upon which he relies for disputing it; and in default of his so doing, unless otherwise ordered by the Court or a Judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question.

No. 160.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The County Courts Act.

1st Reading, 22nd day of February, 1911.

Mr. INNES.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 161. 1911.

BILL

An Act to amend the Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 7 of section 2 of *The Assessment Act* is amended by inserting after the word "shall" at the end of the first line thereof the words "except as provided in section 2*a*." 4 Edw. VII., c. 23, s. 2, amended.

2. *The Assessment Act* is amended by adding thereto the following sections:— 4 Edw. VII. c. 23, amended.

Interpretation.

2*a*. Where the words following occur in sections 4*a* to 4*e* both inclusive and as applied to any municipality in which a By-law passed pursuant to section 4*a* is for the time being in force, wherever elsewhere they occur in this Act or the schedules hereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

"Land," "Real Property," "Real Estate."

1. "Land," "Real Property" and "Real Estate" shall include:

(*a*) Land covered with water;
(*b*) All mines, minerals, gas, oil, salt, quarries and fossils in and under land.

"Improvements."

2. "Improvements" shall include:

(*a*) All buildings, or any part of any building and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to, land;
(*b*) All structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, road, street, lane or public place or water;

(*c*) All trees and underwood growing upon land.

Assessment of lands and improvements.

4*a*. (1) In any municipality the council of which by By-law so provides there shall for the purposes of levying of taxes or rates be two classes of assessments, as follows:—

(*a*) Lands;

(*b*) Improvements, income, business and all assessments other than lands.

(2) There shall in such cases be two rates of taxation, one a higher rate, on lands, and the other, a lower rate, on improvements, income business and all assessments other than lands.

By-law to be approved of by ratepayers.

4*b*. No By-law passed pursuant to the provisions of section 4*a* shall be effective unless it receives the votes of not less than two-thirds of the council on the final passage thereof; or unless it receives the assent of the ratepayers before the final passing thereof.

Petition for submission of by-law.

4*c*. Where a petition signed by at least one per cent. of the ratepayers of any municipality is filed with the Clerk on or before the 1st day of December in any year the council shall submit a By-law such as is referred to in section 4*a* hereof to the ratepayers at the next ensuing municipal election.

Council to determine rates.

4*d*. Where in any municipality a By-law is adopted pursuant to the provisions of section 4*a* hereof the council shall by By-law determine the relative rates of taxation of the two classes of assessment.

Repeal of by-law.

4*e*. No By-law passed pursuant to the provisions of section 4*a* shall be repealed without the assent of the ratepayers.

No. 161.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Assessment Act.

First Reading, 23rd day of Feb., 1911.

Mr. Fripp.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 162. 1911.

BILL

An Act to amend the Consolidated Municipal Act, 1903.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

(1) Section 510 of *The Consolidated Municipal Act, 1903,* is repealed, and the following section substituted therefor: 3 Edw. VII., c. 19, s. 510, repealed.

Where county has paid amount of city's or town's interest in county buildings.

510. Where a city or separated town has before the 1st of July, 1897, been paid by the county, after the separation, for its interest in such court-house, jail or in a house of correction or registry office, and where the city or town has not erected separate buildings, the award shall determine what sum, if any, shall be annually paid to the county, as the share or contribution of the city or town for or in respect of its use of such court-house, jail, house of correction or registry office, or for or in respect of any enlargement or improvement made thereto by the county after the separation, after crediting to such city, or separated town, the sum to be paid by such city or separated town to the county under Section 511 of this Act. But no award shall provide for the purchase by the county from a city or town not separated from the county for judicial purposes of the interest of such city or town in such buildings or in the enlargement or improvement thereof.

No. 162.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Consolidated Municipal Act, 1903.

First Reading, 23rd day of Feb., 1911.

Mr. FISHER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 163. 1911.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 569 of *The Consolidated Municipal Act, 1903,* is amended by adding thereto the following paragraph: 3 Edw. VII., c. 19, s. 569; amended.

'9. For providing that the reels, engines and vehicles of the Fire Department shall have the right of way on the streets and highways while proceeding to a fire or answering a fire alarm call." Fire reels to have right of way on streets.

No. 163.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Municipal Act.

First Reading, 23rd day of Feb., 1911.

Mr. McPherson.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 164. 1911.

BILL

An Act to amend the Assesment Act.

HIS MAJESTY, by and with the advice and consent of Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 22*b* of *The Assessment Act,* as enacted by section 40 of Chapter 88 of the Acts passed in the 10th year of His late Majesty's reign, is amended by inserting after the word "section" in the seventh line the words "or the lands of any person which are not situate in any school section." 4 Edw. VII., c. 23, s. 22b, amended. Assessment of land en bloc.

No. 164.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Assessment Act.

First Reading, 23rd day of Feb., 1911.

Mr. MASON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 165. 1911.

BILL

An Act to amend The Voters' Lists Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 15 of *The Ontario Voters' Lists Act* is amended by inserting therein the following subsection: 7 Edw. VII., c. 4, s. 15, amended.

(2*a*) A person whose name is entered on any part of the list and who ceases to possess the qualification entitling him to be so entered before the time for giving notice of appeal to the judge has expired, shall, on complaint being duly made under section 17, be deemed to be wrongfully entered on the list and, subject to the provisions of section 19, his name shall be removed therefrom. Complaint that person named on list has lost qualification.

2. Subsection 1 of section 17 of the said Act is amended by inserting after the word "list" in the 2nd line the words: 7 Edw. VII., c. 4, s. 7, subs. 1, amended.

"or complaining that any person whose name is entered thereon has ceased to possess the qualification in respect of which his name is so entered or that any person whose name is not entered on the list has acquired the qualification necessary to entitle him to have his name entered." Who may complain to judge.

No. 165.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Voters' Lists Act.

1st Reading, 24th February, 1911.

Mr. ELLIOTT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 166. 1911.

BILL

An Act respecting the Destruction, by Constables and others, of Injured Animals.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Injured Animals Act.* Imp. Acts, 57-58 Vict., ch. 72.

2. Where a police constable, or the inspector of an incorporated humane society or society for the prevention of cruelty to animals, finds any large animal, such as a horse, cow, sheep or hog, so severely injured that it cannot without cruelty be led away, he shall, if the owner refuses to consent to the destruction of the animal, or is absent, at once summon a veterinary surgeon, if any such surgeon resides or can be found within a reasonable distance, or, if no such surgeon can be obtained, then two reputable citizens, and if it appears by the certificate of such surgeon or by a statement signed by such two citizens that the animal is, or appears to be, mortally injured or so severely injured that it is cruel to keep it alive, it shall be lawful for such police constable or inspector, without the consent of the owner, to kill or cause to be killed the said animal with such instrument or instruments or appliances, and with such precautions and in such a manner as to inflict as little pain and suffering as possible. Duty of Police Constable or Inspector where large animal is found severely injured.

3. If any large animal, as mentioned in section 2, be found to be diseased, disabled from disease, or wandering at large in a disabled condition, or abandoned, or left to die in any street, road, commons or public place, it shall be the duty of any police constable or inspector, as mentioned in section 2, to make a reasonable attempt to ascertain the owner of such animal, and, if such owner cannot be found, or, if found, refuses to give his consent for the killing of such animal, then the said constable or inspector shall proceed in the manner set forth in section 2. Where large animal is found diseased, or wandering at large or abandoned.

Animals run over by railway trains.

4. Where any large animal, as specified in section 2, shall be run over by, or injured by or in, any railway train, so that such animal is severely injured or mortally mutilated, as mentioned in section 2, it shall be the duty of the conductor of such train to report the occurrence to the nearest station agent of said railway, who shall forthwith notify the nearest police constable or inspector, as mentioned in section 2, who shall then proceed in the manner prescribed in said section 2.

How expenses are to be defrayed.

5. The reasonable expenses which may be incurred by any police constable or inspector in or in connection with the taking of the said proceedings and the killing of such animal and in the removing or disposing of its carcass, if the owner refuses to remove or dispose of the same, may be recovered from the owner or from the railway company, as the case may be, as a civil debt, or the same may be recovered from the municipality within which such animal was found and destroyed, and the said municipality may recover the same from the owner thereof or from the railway company as the case may be.

No. 166.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Destruction, by Constables and others, of Injured Animals.

First Reading, 27th day of Feb., 1911.

Mr. McNaught.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 166. 1911.

BILL

An Act respecting the Destruction, by Constables and others, of Injured Animals.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Injured Animals Act.* Imp. Acts, 57-58 Vict., ch. 72.

2. Where a police constable, or the inspector of an incorporated humane society or society for the prevention of cruelty to animals, finds any *horse* so severely injured that it would, in his opinion, be cruel to allow the horse to live, he shall, if the owner refuses to consent to the destruction of the animal, or is absent, at once summon a veterinary surgeon, if any such surgeon resides or can be found within a reasonable distance, or, if no such surgeon can be obtained, then two reputable citizens, and if it appears by the certificate of such surgeon or by a statement signed by such two citizens that the animal is, or appears to be, incapable of being so cured or healed as to live thereafter without suffering, it shall be lawful for such police constable or inspector, without the consent of the owner, to kill or cause to be killed the said animal with such instrument or instruments or appliances, and with such precautions and in such a manner as to inflict as little pain and suffering as possible. Duty of Police Constable or Inspector where large animal is found severely injured.

3. If any *horse is* abandoned, or left to die in any street, road, commons or public place, it shall be the duty of any police constable or inspector, as mentioned in section 2, to make a reasonable attempt to ascertain the owner of such animal, and, if such owner cannot be found, or, if found, refuses to give his consent *to* the killing of such *horse,* then the said constable or inspector shall proceed in the manner set forth in section 2. Where large animal is found diseased, or wandering at large or abandoned.

Animals run over by railway trains.

4. Where any large animal, such as a horse, cow, sheep or hog, is severely injured by any railway *engine or* train, the conductor *of the train shall* report the occurrence to the nearest station agent of *the* railway, who shall forthwith notify the owner if possible and the nearest constable, who shall proceed as provided by section 2.

No. 166.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Destruction, by Constables and others, of Injured Animals.

1st Reading, 27th day of Feb., 1911.
2nd Reading, 3rd day of March, 1911.

(Reprinted as amended by The Committee on Agriculture.)

Mr. McNaught.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 167. 1911.

BILL

An Act to amend The Ontario Game and Fisheries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The clause lettered "G" in subsection 1 of section 11 of *The Ontario Game and Fisheries Act*, as amended by subsection 4 of section 1 of the Act passed in the 10th year of the reign of His late Majesty King Edward VII., chaptered 101, is repealed and the following substituted therefor:— 7 Edw. VII., c. 49, s. 11, subs. 1 (g), amended.

(g) Duck of any kind in the County of Essex or the County of Kent, except from the 15th day of October to the 15th day of December in any year, both days inclusive, or duck of any kind in any other part of Ontario, or any other waterfowl wherever found, except from the 15th day of September to the 15th day of December in any year, both days inclusive. Open season for duck and other water fowl in Essex and Kent.

No. 167.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Game and Fisheries Act.

First Reading, 27th day of Feb., 1911.

Mr. ANDERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 168. 1911.

BILL

An Act to amend The Surrogate Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Enforcement of claims against estates in Division Court.

1. Notwithstanding anything contained in section 69 of *The Surrogate Courts Act,* any person having a claim or demand against the estate of a deceased person which, if it were a claim or demand against a living person, might be enforced in a Division Court, may bring suit for the enforcement of such claim or demand against the personal representative of the deceased in the proper Division Court. 10 Edw. VII., c. 31.

Proviso.

Provided that if notice of contestation of such claim or demand has been given as provided by the said section, the claim or demand shall be forever barred unless such suit shall be commenced within thirty days after the receipt of the notice, and,

Proviso.

Provided that nothing herein contained shall confer any right to enforce a claim or demand which would not have been enforceable under the said section.

No. 168.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Surrogate Courts Act.

First Reading, 27th day of Feb., 1911.

Mr. ANDERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 168. 1911.

BILL

An Act to amend The Surrogate Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 34 of *The Surrogate Courts Act* is amended by adding the following subsections: 10 Edw. VII., c. 31, s. 34 amended.

(5) An appeal shall also lie from any order, decision or determination of the Judge of a Surrogate Court on the taking of accounts in like manner as from the report of a Master under a reference directed by the High Court, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from such a report. Appeal from audit of accounts.

(6) Subsections 2 and 3 shall not apply to the appeal provided for by subsection 5.

2. Section 69 of the said Act is hereby repealed and the following substituted therefor: s. 69 amended.

"69.—(1) Where a claim or demand is made against the estate of a deceased person which, in the opinion of his personal representative, is unjust, in whole or in part, or where such personal representative has notice of such a claim or demand, he may, at any time before payment serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section. Notice contesting claims made.

"(2) Subject to the provisions of subsection 3, the claimant may thereupon apply to the Judge of the Surrogate out of which the probate or letters of Application for order allowing claim.

administration of the estate issued for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he may deem just, and if he does not make such application within thirty days after receiving the notice or within such further time as the Judge either before or after the expiration of the thirty days may allow, he shall be deemed to have abandoned his claim, and the same shall be forever barred.

Claim within jurisdiction of Division Court.

"(3) Where the claim amounts to not more than $100 and is otherwise within the jurisdiction of the Division Court the application shall be made to a Judge of a Division Court in which an action for the recovery of the claim might be brought, and shall be heard by the Judge at the sittings of such Court unless the claimant and the personal representative consent to the application being made to the Judge of the Surrogate Court and in that case the application may be made to him.

Notice in such case.

"(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the Surrogate Court Judge, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the Judge may direct.

Right of persons interested to be heard.

"(5) Where the application is made to the Judge of the Surrogate Court, in addition to the persons to whom notice given any other person who is interested in the estate shall have the right to be heard and to take part in the proceedings.

Appeal from surrogate judge.

"(6) If the amount of the claim or the part of it which is contested exceeds $200, an order of the Judge shall be subject to appeal as provided by subsection 5 of section 34, and the order, unless reversed on appeal and as varied if varied on appeal, when filed in the County Court of the county shall, irrespective of the amount of the claim, become and may be enforced in like manner as a judgment of that Court.

"(7) Where the claim or the part of it which is contested amounts to $800 or more, instead of proceeding as provided by this section, the Judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor to bring an action in the High Court for the recovery or the establishment of his claim on such terms and conditions as the Judge may deem just. Action may be decided to be brought if claim is $800 or more.

"(8) The order of the Judge of a Division Court shall have the effect of, and may be enforced in like manner as a judgment of that Court. Effect of order of division court judge.

"(9) Where the claim amounts to not more than $100 and is otherwise within the jurisdiction of the Division Court, the fees and costs shall be according to the tariff of that Court, and in other cases the fees payable to the Judge of the Surrogate Court and to the Registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested. Costs when claims within division court jurisdiction.

"(10) Where an appeal lies as provided by subsection 6, if the personal representative does not appeal from the order, the Official Guardian or any person beneficially interested in the estate may by leave of a Judge of the High Court appeal therefrom. Right of persons interested in appeal.

"(11) Where the personal representative appeals, the Official Guardian and any person beneficially interested in the estate may by leave of the Court which hears the appeal appear and be heard in support thereof. Right of person interested to be heard on appeal.

"(12) The provisions of this section shall apply notwithstanding that the claim or demand is not presently payable and that for that reason an action for the recovery of it could not be brought and in such a case the order of the Judge shall not be enforceable by execution until the claim or demand becomes payable." Claims not payable.

No. 168.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Surrogate Courts Act.

1st Reading, 27th day of Feb., 1911.
2nd Reading, 7th day of March, 1911.

(*Reprinted as amended by The Legal Committee.*)

Mr. ANDERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 169. 1911.

BILL

An Act respecting Education for Industrial Purposes

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Industrial Education Act.* Short Title.

2. In this Act— Interpretation.

(*a*) "Board" shall mean and include a Board of Education, a Board of High School Trustees, and a Board of an Urban Continuation School; "Board."

(*b*) "Department" shall mean Department of Education; "Department."

(*c*) "Minister" shall mean Minister of Education; "Minister."

(*d*) "Regulations" shall mean regulations made under the authority of *The Department of Education Act.* "Regulations."

3.—(1) Part I. shall apply to all Art, Industrial, or Technical Schools, or departments thereof, heretofore established under Acts of the Legislature respecting High Schools and Technical Schools, and in operation at the time of the passing of this Act, and to the schools hereafter established under Part I. of this Act. Application of Act.

(2) Part II. shall apply to agricultural and commercial departments of schools or commercial High Schools heretofore or hereafter established under the regulations of the Department. Agricultural and commercial departments.

PART I.

Industrial, Technical and Art Schools.

4. With the approval of the Minister, a High School Board or a Board of Education of any City, Town or Village, or an Urban Continuation School Board, may provide for Classes of schools which may be established.

the instruction of duly admitted pupils in the following classes of schools:

General Industrial Schools.

(1) General Industrial Schools for instruction in such subjects as may form a basal preparation for the trades, including work-shop practice, with correlated drawing, English, and practical mathematics and science, and continuing the essential subjects of a good general education.

Special Industrial Schools.

(2) Special Industrial Schools, providing for instruction in the theoretical and practical work of particular trades carried on in the City, Town or Village, and when deemed desirable in the essential subjects of a good general education.

Technical High Schools.

(3) Technical High Schools and departments of High Schools for the training of duly admitted High School pupils for minor directive positions in industrial establishments.

Co-operative Industrial Schools.

(4) Co-operative and Industrial Schools in which, during part of the week and under such conditions as may be agreed upon between the Board and the employer: (*a*) apprentices, whether articled or not, employed in the workshops may receive in school instruction bearing upon their trades; and (*b*) pupils attending school may receive practical instruction in the workshops.

Art Schools.

(5) Schools for instruction in the Fine and Applied Arts.

Evening Schools for workmen and workwomen.

(6) Industrial, Technical, and Art Evening Schools, in which workmen and workwomen employed during the day may receive theoretical and practical instruction in their trades.

Admission of pupils to schools.

5. Subject to the regulations and with the approval of the Advisory Industrial Committee hereinafter provided for, pupils may be admitted to a special or a general industrial school by the Principal thereof, from the 4th Form of the Public or the Separate School, upon the recommendation of the Principal of such school.

Advisory Committee, how composed.

6.—(1) Every Technical School heretofore established and now in operation and every school established under section 4 of this Act shall be under the management and control of a Committee composed of twelve persons, the members of which shall be appointed by the Board upon the nomination of the Chairman as follows:—

(*a*) Six members of the Board, including one representative of the Board of Public School Trustees

and one representative of the Board of Separate School Trustees, if any;

(*b*) Three persons not members of the Board who are engaged as employees in the manufacturing or other industries carried on in the local municipality or in the county in which the school is situate; and

(*c*) Three other persons not members of the Board who are employers of labour or directors of companies employing labour in manufacturing or other industries carried on in the local municipality or in the county in which the school is situate.

Advisory Industrial Committee.

(2) The Committee appointed under subsection 1 shall be known as the Advisory Industrial Committee.

Number of Committees.

7.—(1) In a municipality where there are more than one of the schools established under section 4 of this Act, a separate Advisory Industrial Committee may be appointed for each school, or the Board may place two or more of such schools under one Committee.

Who may serve on more than one committee.

(2) Where two or more Committees are appointed, the members appointed from the Board or any of them may be appointed to more than one Committee, but no person appointed under clauses (*b*) and (*c*) of the next preceding section shall be appointed to serve on more than one Committee.

Appointment of members of Committee.

8.—(1) The twelve members of the Advisory Industrial Committee shall be appointed at the meeting of the Board at which a school is established under this Act.

Tenure of office of members who are members of Committee.

(2) The members of the Committee appointed at such meeting under clause (*a*) of subsection 1 of section 6 shall hold office until the first meeting of the Board in the next following year.

Tenure of office of other members.

(3) One of the members appointed under clause (*b*) of subsection 1 of section 6 and one of those appointed under clause (*c*) of subsection 1 of section 6 shall be appointed to hold office until the first meeting of the Board in the next following year; one of each class shall be appointed to hold office until the first meeting in the second year following that in which they are appointed, and one of each class to hold office until the first meeting in the third year following that in which he is appointed.

Filling vacancies caused by retirement.

(4) The Board at its first meeting in each year after the establishment of the school shall appoint a sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members of the Committee appointed from that class.

Filling other vacancies.

(5) Every vacancy upon the Committee occasioned by death, removal or other cause shall be filled by the appointment by the Board upon the nomination of the Chairman of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat became vacant.

Qualification of members not appointed from Board.

9. The members of the Advisory Industrial Committee appointed under clauses (*b*) and (*c*) of subsection 1 of section 6 shall be British subjects and resident ratepayers of the local municipality or in the county in which the school is situate for which they are appointed, and shall be persons who, in the judgment of the Board, are specially competent to give advice and other assistance in the management of the schools under charge of the Advisory Industrial Committee.

Powers of Committee.

10.—(1) Subject to the approval of the Minister and the Board, every Advisory Industrial Committee shall have authority: (*a*) to provide a suitable site and building and suitable equipment; (*b*) to arrange for conducting the school or any classes thereof in a High, Public or Continuation School or other building in the municipality; and (*c*) to prescribe courses of study and provide for examinations and diplomas.

Powers subject to approval of Board.

(2) Subject to the approval of the Board, every Advisory Industrial Committee shall have authority: (*a*) to employ and dismiss teachers and fix their salaries; (*b*) to visit and report on the school or schools in its charge; (*c*) to fix the fees payable by pupils in attendance; (*d*) to submit annually during the month of January to the Board an estimate of the amount required to carry on the work of the school during the ensuing year; and (*e*) generally to do all other things necessary for carrying out the true object and intent of this Act with respect to any school which may be established thereunder.

Provision for cost of school.

11. Subject to the regulations, the cost of establishing and maintaining every school established under section 4 of this Act shall be provided in the same manner as in the case of a High School.

Apportionment of Legislative grant.

12. Subject to the regulations, the Minister shall apportion all sums of money appropriated by the Legislature for

the establishment and maintenance of schools established under section 4 of this Act.

Regulations.

13. The regulations may provide as to any class of schools established under this Act for (1) the qualifications of teachers; (2) the courses of study; (3) the character of the site, accommodations, and equipment; (4) the maximum and minimum fees that may be charged to pupils; and (5) generally as to any matter relating to the conduct and efficiency of the schools not herein expressly provided for.

PART II.

Agricultural and Commercial Departments and Commercial High Schools.

Committees of Management for Agricultural and Commercial Departments and Commercial High Schools.

14.—(1) Where, in accordance with the regulations, a Commercial High School has been heretofore or is hereafter established, or where an Agricultural or Commercial Department has been heretofore or is hereafter established, in a High or Continuation School, the Board having control of such department or school shall appoint for each agricultural department and each commercial department or commercial High School, a Committee of Management, consisting in each case of eight persons nominated by the Chairman of the Board, (*a*) four of whom shall be members of the Board, including one representative thereon of the Board of Public School Trustees and one of the Board of Separate School Trustees if any; and (*b*) four other persons, resident ratepayers of the local municipality or of the county in which the school or department is situated, but not members of the Board, each appointee being also a British subject of the full age of twenty-one years and actually engaged in agriculture or commercial pursuits, and, in the judgment of the Board, competent to advise and give other assistance in the management of the departments or schools.

How designated.

(2) Such Committees shall be respectively known as the Advisory Agricultural Committee and the Advisory Commercial Committee.

Appointment and tenure of office.

(3) Two of the members of the committee not members of the Board shall be appointed to hold office until the first meeting of the Board in the next following year, one shall be appointed to hold office until the first meeting in the second year following, and one to hold office until the first meeting in the third year following, and save as aforesaid the provisions of this Act as to the appointment and term of office and the filling of vacancies among the members of an Ad-

visory Industrial Committee shall apply to a Committee appointed under subsection 1 of this section.

Powers of Committee.

15. Subject to the approval of the Minister and the Board, every Advisory Agricultural Committee and every Advisory Commercial Committee shall have authority to prescribe courses of study and provide for examinations and diplomas; and, subject to the approval of the Board, (*a*) to visit and report on the school or department under its charge; to provide accommodations, equipment and supplies; (*b*) to fix the fees payable by pupils in attendance; (*c*) to submit annually during the month of January to the Board an estimate of the amount required to carry on the work of the school or department during the ensuing year; and (*d*) generally to do all other things necessary for carrying out the true object and intent of Part II. of this Act.

9 Edward VII., c. 80, amended.

16.—(1) *The Public Libraries Act* is amended as follows:

S. 8, subs. 3, amended.

(*a*) By striking out all the words in subsection 3 of section 8 after the word "village" in the 4th line.

S. 8, subss. 5 and 6, repealed.

(*b*) By striking out subsections 5 and 6 of section 8.

S. 9, subs. 1, amended.

(*c*) By striking out the words "museum, evening classes and art school" in the 5th line of subsection 1 of section 9 and inserting the words "and museum" in lieu thereof.

S. 10, cl. (c), amended.

(*d*) By striking out the words "museums, evening classes and art schools" in the 2nd and 3rd lines of clause (*c*) of section 10 and inserting the words "and museums" in lieu thereof.

S. 27, repealed.

(*e*) By striking out section 27.

S. 32, amended.

(*f*) By striking out the words "museum, art school, or any class in connection therewith" in the 2nd and 3rd lines of section 32 and inserting the words "or museum" in lieu thereof.

Rev. Stat., c. 301, repealed.

(2) *The Act respecting Technical Schools* is repealed.

3 Edw. VII, c. 19, s. 587, pars. 10, 11, repealed.

(3) Paragraphs 10 and 11 of section 587 of *The Consolidated Municipal Act, 1903*, are repealed.

No. 169.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Education for Industrial Purposes.

1st Reading, 27th February, 1911.

Mr. PYNE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 170. 1911.

BILL

An Act to amend the Legislative Assembly Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The sections 68 to 72 inclusive and section 74 of *The Legislative Assembly Act* are hereby repealed and the following sections respectively substituted therefor: 8 Edw. VII., c. 5, ss. 68-72, 74 repealed.

INDEMNITY TO MEMBERS.

68. In every Session of the Assembly there shall be allowed to each member attending the Session for each day's attendance, if the Session does not extend beyond thirty days, and if the Session extends beyond thirty days then there shall be payable to each member attending such Session a sessional allowance of $1,400. Allowance to members for attendance at any Session.

69.—(1) A deduction at the rate of per day shall be made from his sessional allowance for every day on which a member does not attend sittings of the Assembly, or of some Committee thereof in case the Assembly sits on such days, but each day during the Session, after the first on which the member attends on which there has been no sittings of the Assembly, in consequence of its having adjourned over the day or on which the member is travelling *bona fide* on his way to the place where the Session is held, for the purpose of attending a sittings of the Assembly or on which the member was in the place where the Session was held, or within ten miles thereof, but was prevented by sickness from attending the sittings shall be reckoned as a day of attendance at the Session. Deductions for non-attendance. What shall be reckoned as days of attendance.

(2) No deduction shall be made for or on account of the necessary absence of a member, so long as such absence does not exceed days during the Session. When deduction not to be made for absence.

Allowance for less than thirty-one days' attendance.

70. A member shall not be entitled to the sessional allowance for less than thirty-one days' attendance, reckoned as aforesaid, but his allowance for any less number of days shall be for each day's attendance.

How the Compensation shall be payable.

71. The compensation may be paid from time to time as the member becomes entitled to it, to the extent of for each day's attendance, and the remainder shall be retained by the Clerk until the close of the Session, when the final payment shall be made.

Where a person is a member for only part of the Session.

72. If a person is from any cause a member of the Assembly for a part only of Session, then in case he is a member for upwards of thirty days during the Session, he shall be entitled to the sessional allowance, subject to the deduction for non-attendance as a member and also to a deduction of for each day of the Session before he was elected or after he ceased to be a member; but if he is a member for thirty days or less, he shall be entitled only to for each day's attendance at the Session whatever be the length thereof.

Final payment at the close of Session.

Oath to be taken by members.

74. The sum due to every member at the close of a Session shall be paid to him on his taking and signing before the Clerk or Accountant or a Justice of the Peace an oath to be kept by the Clerk, stating the number of days attendance and the mileage according to the shortest mail route as determined and certified by the Speaker, and the amount of the allowance after deducting the number of days (if any) which are to be deducted under any preceding section and the oath may be according to Form 3.

8 Edw. VII., c. 5, form 3 repealed.

2. The following Form is substituted for Form 3, referred to in Section 74 of the said Act:

FORM 3.

(*Referred to in Section* 74.)

OATH TO OBTAIN SESSIONAL ALLOWANCE.

I, A. B., a member of the Legislative Assembly, make oath and say that I reside at in which is distant by the shortest mail route miles as determined by the Speaker from Toronto, where the Session which began on the day of 19 was held. That the first day during the said Session on which I was present was the day of 19 . That on the said day and on each day of the said Session, after the said day on which there was a sittings of the Assembly, I attended such sittings or a sittings of some Committee thereof, (*a*) except only on days, (*b*) on of which I was travelling *bona fide* on

my way to the place where the Session is held for the purpose of attending a sittings of the Assembly, and (*c*) on of which I was prevented by sickness from attending, though I was then present at the said City of Toronto, or within ten miles thereof.

(Signature) A. B.

(*d*) Sworn before me at the day of 19 .

L. K. C.,
Clerk (or Accountant) of the Legislative Assembly,
or Justice of the Peace for the of
(as the case may be).

NOTE.

If the member attended a sittings of the Assembly or of some Committee, on every sitting day after the first on which he so attended, omit the words from (a) *to* (d), *and if his non-attendance was not on any day occasioned by travelling as therein set out or by sickness, omit the words from* (b) *to* (d).

If the person making the oath became or ceased to be a member after the commencement of the Session, vary the form so as to state correctly the facts upon which the sum due to the member is to be calculated.

No. 170.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Legislative Assembly Act.

1st Reading, 28th February, 1911.

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 170. 1911.

BILL

An Act to amend the Legislative Assembly Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The sections 68 to 71 inclusive and section 74 of *The Legislative Assembly Act* are hereby repealed and the following sections respectively substituted therefor: 8 Edw. VII., c. 5, ss. 68-72, 74 repealed

INDEMNITY TO MEMBERS.

68. In every Session of the Assembly there shall be allowed to each member attending the Session $20 for each day's attendance, if the Session does not extend beyond thirty days, and if the Session extends beyond thirty days then there shall be payable to each member attending such Session a sessional allowance of $1,400. Allowance to members for attendance at any Session.

69.—(1) A deduction at the rate of $15.00 per day shall be made from his sessional allowance for every day on which a member does not attend sittings of the Assembly, or of some Committee thereof in case the Assembly sits on such days, but each day during the Session, after the first on which the member attends on which there has been no sittings of the Assembly, in consequence of its having adjourned over the day or on which the member is travelling *bona fide* on his way to the place where the Session is held, for the purpose of attending a sittings of the Assembly or on which the member was in the place where the Session was held, or within ten miles thereof, but was prevented by sickness from attending the sittings shall be reckoned as a day of attendance at the Session. Deductions for non-attendance. What shall be reckoned as days of attendance.

(2) No deduction shall be made for or on account of the necessary absence of a member, so long as such absence does not exceed *six* days during the Session. When deduction not to be made for absence.

How the Compensation shall be payable.

70. The compensation may be paid from time to time as the member becomes entitled to it, to the extent of $20 for each day's attendance, and the remainder shall be retained by the Clerk until the close of the Session, when the final payment shall be made.

Where a person is a member for only part of the Session.

71. If a person is from any cause a member of the Assembly for a part only of Session, then in case he is a member for upwards of thirty days during the Session, he shall be entitled to the sessional allowance, subject to the deduction for non-attendance as a member and also to a deduction of $20 for each day of the Session before he was elected or after he ceased to be a member; but if he is a member for thirty days or less, he shall be entitled only to $20 for each day's attendance at the Session whatever be the length thereof.

Final payment at the close of Session.

Oath to be taken by members.

74. The sum due to every member at the close of a Session shall be paid to him on his taking and signing before the Clerk or Accountant or a Justice of the Peace an oath to be kept by the Clerk, stating the number of days attendance and the mileage according to the shortest mail route as determined and certified by the Speaker, and the amount of the allowance after deducting the number of days (if any) which are to be deducted under any preceding section and the oath may be according to Form 3.

2. Clause 68 of section 1 of this Act shall come into force immediately upon the passing hereof, all other sections of said Act shall come into force on the first day of July, 1911.

8 Edw. VII., c. 5, form 3 repealed.

3. The following Form is substituted for Form 3, referred to in Section 74 of the said Act:

FORM 3.

(*Referred to in Section* 74.)

OATH TO OBTAIN SESSIONAL ALLOWANCE.

I, A. B., a member of the Legislative Assembly, make oath and say that I reside at in which is distant by the shortest mail route miles as determined by the Speaker from Toronto, where the Session which began on the day of 19 was held. That the first day during the said Session on which I was present was the day of 19 . That on the said day and on each day of the said Session, after the said day on which there was a sittings of the Assembly, I attended such sittings or a sittings of some Committee thereof, (*a*) except only on days, (*b*) on of which I was travelling *bona fide* on

my way to the place where the Session is held for the purpose of attending a sittings of the Assembly, and (c) on of which I was prevented by sickness from attending, though I was then present at the said City of Toronto, or within ten miles thereof.

(Signature) A. B.

(*d*) Sworn before me at the day of 19 .

L. K. C.,

Clerk (or Accountant) of the Legislative Assembly,
or Justice of the Peace for the of
(as the case may be).

NOTE.

If the member attended a sittings of the Assembly or of some Committee, on every sitting day after the first on which he so attended, omit the words from (a) *to* (d), *and if his non-attendance was not on any day occasioned by travelling as therein set out or by sickness, omit the words from* (b) *to* (d).

If the person making the oath became or ceased to be a member after the commencement of the Session, vary the form so as to state correctly the facts upon which the sum due to the member is to be calculated.

No. 170.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Legislative Assembly Act.

1st Reading, 28th day of February, 1911.
2nd Reading, 3rd day of March, 1911.

(*Reprinted as amended by The Committee of the Whole House.*)

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 171. 1911.

BILL

An Act respecting the Survey of Part of the Township of Gibson.

WHEREAS the Township of Gibson, in the District of Muskoka was originally surveyed under *The Surveys Act;* Preamble.

And whereas by Order in Council, dated the 24th day of June, 1881, the eastern part of said Township, containing an area of 25,582 acres was set apart for the purpose of settling thereon a number of families of the Oka Indians then residing in the Province of Quebec, and the Superintendent General of Indian Affairs paid therefor at the price of 50 cents per acre, and the said part of the said Township was transferred to the Government of Canada as a Reserve for the use of the said Indians;

And whereas the Indians aforesaid have been removed to the said Reserve, and are now occupying and improving the various lands alloted to them, and amongst others the lots numbering from 6 to 16 inclusive, in the 3rd and 4th concessions of the said Township;

And whereas it has been found that the clearings and improvements of the several Indians occupying the said lots have been so made as to overlap the lot lines as fixed by the said original survey and thereby great inconvenience is likely to arise to the several occupants;

And whereas a re-survey of the said lots, in the said concessions has, under the direction of the Superintendent General of Indian affairs been made by Ontario Land Surveyor, William Galbraith, according to a plan dated January 4th, 1911, the lot lines whereof secure a subdivision satisfactory to all parties concerned, and the Indians living on the lots affected have all signed agreements accepting the said re-survey as correctly defining their holdings;

And whereas the Superintendent General of Indian Affairs has requested that an Act of the Legislature be passed cancelling the said original survey so far as the said lots and concessions are concerned, and legalizing the said re-survey, and it is expedient to comply with the said request;

Therefore His Majesty, by and with the advice and consent of the Legislature of the Province of Ontario, enacts as follows:—

Survey of Gibson cancelled and re-survey confirmed.

1. The original survey of the lots numbering from 6 to 16 inclusive, in the 3rd and 4th concessions of the Township of Gibson, in the District of Muskoka, is hereby cancelled, and the re-survey thereof made by Ontario Land Surveyor William Galbraith as shown on a plan, dated 4th January, 1911, is hereby legalized and confirmed, and is declared to be the only true and lawful survey of the said part of the said Township of Gibson.

Determining rear angles of lots in concessions 3 and 4.

The rear angles of lots 6 to 10 inclusive, in the third and fourth concessions to be determined by measuring along the blind line between the 3rd and 4th an equal width for each lot, and a straight line drawn from the front angle to the rear angle shall be the true division line between the lots.

Course for division of side lines.

The division of side line between lots 11 and 12, 12 and 13, 13 and 14, 14 and 15, in the third and fourth concessions respectively, shall be drawn on the same course as a straight line joining the southeast and northeast angles of lot eleven in each concession respectively.

171.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Survey of part of the Township of Gibson.

First Reading, 28th February, 1911.

MR. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 172. 1911.

BILL

An Act to regulate the Use of Electricity in Mines

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Mining Act of Ontario* is amended by adding to section 164 in Part IX. thereof the following Rules:— 8 Edw. VII., c. 21, s. 164, amended.

Use of Electricity.

44*a*. The expression "pressure" herein means the difference of electrical potential between any two electrical conductors. "Pressure."

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth, at the terminals where the electrical energy is being used does not normally exceed 250 volts, this shall be deemed a low pressure system. Low pressure system.

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth at the terminals where the electrical energy is being used, normally exceeds 250 volts, but does not normally exceed 600 volts, this shall be deemed a medium pressure system. Medium pressure system.

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth at the terminals where the electrical energy is being used normally exceeds 600 volts, this shall be deemed a high pressure system. High pressure system.

44*b*. All electrical apparatus and conductors shall be sufficient in size and power for the work they may be called upon to do, and, so far as is reasonably practicable, efficiently cov- Requirements as to electrical apparatus and conductors.

ered or safeguarded and so installed, worked and maintained as to reduce the danger to person or property through accidental shock or fire to the minimum, and shall be of such construction, and so worked, that the rise in temperature, caused by ordinary working, will not injure the insulating materials.

Wires and conductors to be enclosed and grounded.

44*c*. Where a medium-pressure supply is used for power purposes or for arc lamps in series, the wires or conductors forming the connections to the motors, transformers, arc lamps or otherwise in connection with the supply, shall be, as far as is reasonably practicable, completely enclosed in strong armoring or metal casing efficiently grounded to earth, or they shall be fixed at such a distance apart, or in such a manner that danger from fire or shock may be reduced to a minimum. This rule shall not apply to trailing cables.

When only medium pressure may be used.

44*d*. No higher pressure than a medium pressure supply shall be used other than for transmission or for motors, and the wires or conductors to the motors or transformers or otherwise in connection with the supply shall be completely enclosed in a strong armoring or metal casing efficiently connected with earth, or they shall be fixed at such a distance apart or in such a manner that danger to person or property from fire or shock shall be reduced to a minimum.

Marking high pressure appliances.

44*e*. The machines, apparatus and lines shall be so marked as to clearly indicate that they are high pressure.

Higher than medium pressure, when prohibited.

44*f*. A higher pressure than a medium pressure shall not be used for portable motors nor for any other purpose underground.

Insulating material.

44*g*. Main and distribution switch and fuse boards must be made of incombustible insulating material, such as marble or slate, free from metallic veins, and be fixed in as dry a situation as practicable.

Fire buckets of sand to be kept.

44*h*. A sufficient number of fire buckets filled with clean, dry sand shall be kept in electrical machine rooms ready for immediate use in extinguishing fires.

Repairs, etc., when current is on.

44*i*. No repair or cleaning of the live parts of any electrical apparatus or work in dangerous proximity thereto, except mere wiping or oiling, shall be done when the current is on.

India rubber gloves, mats or shoes to be used.

44*j*. Gloves, mats or shoes of India rubber or other insulating material, shall be supplied and used where the live parts of switches, machines or other apparatus working at a pressure exceeding the limits of low pressure have to be handled for the purpose of adjustment.

44*k*. A competent person shall be in charge of the electrical apparatus or machinery when it is in use at the mine, and at such time as the amount of electrical energy delivered down the mine exceeds 150 kilowatts; a competent person shall also be in charge below ground. Every person operating or having charge of any electric apparatus shall have been instructed in his duty and be competent for the work that he is set to do. Competent person to be in charge.

44*l*. No person shall wilfully damage, interfere with or without proper authority remove or render useless any electric line, or any machine, apparatus or part thereof used in connection with the supply or use of electricity. Damaging or interfering with machinery, etc.

44*m*. Overhead bare wires on the surface must be efficiently supported upon insulators and be clear of any traffic, and be provided with efficient lightning arresters. Insulators for overhead bare wires.

44*n*. All cables used in shafts for the transmission of electrical energy must be highly insulated and substantially fixed. Shaft cables not capable of sustaining their own weight shall be properly supported at intervals according to the weight of the cable. Cables used in shafts.

44*o*. In underground roads the trolley wires shall be placed as close to the side as practicable, and in a straight line, and securely supported at frequent intervals. In all roads where it is necessary for men to travel on foot, all wires, except signal wires, must be placed on the same side of the roadway and efficiently protected. Signal wires should, where practicable, be placed on the opposite side of the roadway from other wires. Trolley wires in underground roads. Protection of wires.

44*p*. At all landings, turn-outs, partings or crossings, or other places where it is necessary for men to pass near the wires, a suitable protection shall be placed around the wires, or the pressure must be cut off when such places are used for travelling on foot. Sufficient illumination to make the wires plainly visible shall be provided at all points where men are liable to come in contact with power wires. Protection of wires. Illumination.

44*q*. Every branch trolley shall be fitted with an automatic trolley switch or section insulator and line switch, or some other device that will allow the pressure to be cut off from such trolley when not actually in use. Danger signals, consisting of no fewer than two red lights in parallel, and as many series as may be necessary, shall be connected at suitable intervals to all branch trolley circuits to indicate when the current is on. A notice shall be posted at the entrance to all roadways carrying exposed power wires, warning per- Automatic trolley switch or section insulator. Danger signals.

sons against the dangers of carelessly carrying metal tools such as drills, picks, etc., which may come in contact with the wires.

Trolley wires on surface roads.

44*r*. On surface roads the trolley wires shall be at least 8 feet above the rail level and efficiently guarded.

Insulation of low pressure wires.

44*s*. Low pressure wires for lighting or signal circuits shall either be conveyed in metallic conduits or casings, or suspended from or securely tied to porcelain or glass insulators, so that they do not touch any timbering or metal. On no account shall staples be used. If metallic conduits are used, they must be grounded, and if not electrically continuous every section must be grounded. If separate uncased wires are used they shall be kept at least three inches apart and not brought together except at lamps or fittings.

Unauthorized persons not to go into transformer rooms, etc.

44*t*. No person, other than a person authorized by the owner, manager or superintendent, shall enter a machine, transformer or motor room or interfere with the working of any machine, transformer, motor or apparatus connected therewith and when the authorized person is not present, the door of such room shall be kept securely locked.

Fuses and automatic cut-outs.

44*u*. Fuse and automatic cut-outs shall be so constructed as effectually to interrupt the current when a short circuit occurs, or when the current through them exceeds the normal working current by 100 per cent. Fuses shall be stamped or marked or shall have a label attached indicating the current with which they are intended to be used, or where fuse wire is used, each coil in use shall be so stamped or labeled. Fuses shall only be adjusted or replaced by an authorized person.

Covering live parts of switches, etc.

44*v*. All live parts of switches, fuses and cut-outs, not in machine rooms, or in compartments specially arranged for the purpose must be covered. These covers must be of incombustible material and must be either non-conducting or of rigid metal, and, as far as practicable, clear of all internal mechanism.

Using electricity for firing shots.

44*w*.—(1) Electricity from lighting or power cables shall not be used for firing shots, except when a special firing plug, button or switch is provided, which plug, button or switch shall be placed in a fixed locked box, and shall only be accessible to the authorized shot firer.

(2) The firing cables or wires shall not be connected to this box until immediately before they are required for the firing of shots, and shall be disconnected immediately after the shots are fired.

Precautions in using shot-firing cables.

44*x*. When shot-firing cables or wires are used in the vicinity of power or lighting cables, sufficient precautions shall be taken to prevent the shot-firing cables or wires coming in contact with the lighting or power cables.

Precautions against contact of electric conductors.

44*y*. All proper precautions must be taken to prevent electric, signal or telephone wires coming into contact with other electric conductors, whether insulated or not.

Transformers in separate buildings.

44*z*. A transformer for transforming a high pressure to a medium or low pressure must be placed in a separate building used only for that purpose.

Thawing explosives.

44*aa*. Electric energy shall not be used directly to thaw explosives.

Limit of pressure on motor.

44*bb*. No motor outside of a machine or motor room shall be operated at a pressure exceeding the limits of medium pressure.

Metallic coverings, etc., to be grounded.

44*cc*. All metallic coverings, armoring of cables, and the frames and bed-plates of generators, transformers and motors other than portable motors shall as far as is reasonably practicable, be efficiently grounded.

Safety in construction.

44*dd*. All electric switches, controllers, motor-starting devices or other apparatus essential to the operation of electric motors or other equipment shall be constructed in such a way that they may be safely used for the purposes for which they are intended, and shall be maintained in such condition.

Trailing cables.

44*ee*. A trailing cable shall be especially flexible, heavily insulated and protected with extra stout braiding or other equally effective covering, and in the event of it breaking down or being damaged, or of its inflicting a shock upon any person, it shall at once be put out of service, and shall not be used again until it has been repaired and tested by the mine electrician.

Electric drilling machine.

44*ff*. The person in charge of an electric drilling machine shall not leave the machine while it is working, and shall see that the pressure is cut off from the trailing cables before leaving the working place.

Continuing use of present appliances.

44*gg*. Notwithstanding anything contained in these rules, any electrical plant or apparatus installed or in use before the coming into force of these rules may be continued in use, unless the inspector shall otherwise direct.

No. 172.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to regulate the Use of Electricity in Mines.

1st Reading, 28th February, 1911.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 173. 1911.

BILL

An Act to amend the Division Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Clause (*a*) of subsection 1 of section 62 of *The Division Courts Act* is amended by striking out the figures "$60" in line 2 and substituting therefor "$200." 10 Edw. VII. c. 32, s. 62, subs. 1, cl. *a*, amended.

2. Clause (*b*) of the said subsection is amended by striking out the figures "$100" in line 3 and substituting therefor "$200." Clause *b*, amended.

3. Clause (*c*) of the said subsection is amended by striking out the figures "$100" in line 5 and substituting therefor "$200." Clause *c*, amended.

4. Paragraph II. of clause (*d*) of the said subsection is amended by striking out the figures "$200" in line 2 and substituting therefor "$400" and paragraph III. of the said clause is amended by striking out the figures "$400" in line 2 and substituting therefor "$600," and by striking out the figures "$200" in line 4 and substituting therefor "$400." Clause *d*, amended.

5. Clause (*e*) of the said subsection is amended by striking out the figures "$60" in line 4 and substituting therefor "$200." Clause *e*, amended.

6. Subsection 2 of the said section is amended by striking out the figures "$60" in line 4 and substituting therefor "$200," and by striking out the figures "$60" in line 13 10 Edw. VII. c. 32, s. 62, subs. 2, amended.

and substituting therefor "$200," and by striking out the figures "$100" in line 16 and substituting therefor "$200," and by striking out the figures "$200" in line 18 and substituting therefor "$300," and by striking out the figures "$100" in line 20 and substituting therefor "$200."

10 Edw. VII. c. 32, s. 62, subs. 4, amended.

7. Subsection 4 of the said section is amended by striking out the figures "$60" in line 3 and substituting therefor "$200."

No. 173.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Division Courts Act.

1st Reading, 28th February, 1911.

Mr. ANDERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 174. 1911.

BILL

An Act to Regulate Passenger Traffic on Street Railways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Half fare payable unless seat provided.

1. In cities having a population of 50,000 and over, notwithstanding any Act or agreement to the contrary, a passenger who is admitted to a car in which the seating capacity thereof is occupied and is not on entering such car provided with a seat, shall only be required to pay half fare.

Fare of standing passenger.

2. Where the regular fare is five cents or less, or where tickets costing five cents or less are issued, the fare of such standing passenger shall be two cents, and on payment of such fare said passenger shall be entitled to be carried to his destination or on demand receive a transfer in the same manner as if he had paid the ordinary and regular fare.

Copy of Act to be posted up.

3. A copy of this Act shall be posted up and kept posted up by the proprietors of said railway in each car, but the failure to do so shall not affect the rights of a passenger.

No. 174.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to regulate Passenger Traffic on Street Railways.

First Reading, 28th day of Feb., 1911.

Mr. PROUDFOOT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 175. 1911.

BILL

An Act respecting Conditional Sales of Chattels.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Act respecting conditional sales of chattels and all amendments thereto are hereby repealed. Rev. Stat., c. 149, repealed.

2. Hereafter no instrument creating or intending to create a lien, charge or claim upon any goods, chattels, wares or merchandise, or which provides that the ownership in any goods, chattels, wares or merchandise shall remain with the seller or lender for hire until payment of the purchase or consideration money, or any part thereof, shall be legal or binding upon the purchaser, and the same shall be null and void and of no effect unless the same is expressed to be and is in fact a chattel mortgage made in pursuance of *The Act respecting Mortgages and Sales of Personal Property,* and filed in the office of the Clerk of the County Court in the manner, within the time and as provided by the said Act, and no instrument mentioned herein shall be registered in any registry office against the lands of the purchaser or any part thereof. Instrument under which possession passes without property to be treated as chattel mortgages.

No. 175.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Conditional Sales of Chattels.

First Reading, 28th day of Feb., 1911.

Mr. INNES.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 176. 1911.

BILL

An Act to amend the Motor Vehicles Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The Motor Vehicles Act is repealed and the following substituted therefor: 6 Edw. VII., c. 46, s. 18, repealed.

18. When any loss or damage is incurred or sustained by any person by reason of a motor vehicle on a highway the owner and the driver of such motor vehicle shall be jointly and severally liable for such loss or damage, unless, in the opinion of the Court or jury trying the action, such loss or damage was occasioned by the negligence of the person or persons sustaining such damage, or either or any of them. Liability for damages.

No. 176.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Motor Vehicles Act.

1st Reading, 28th February, 1911.

Mr. ELLIOTT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 177. 1911.

BILL

An Act to amend the Supplementary Revenue Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Supplementary Revenue Act* is amended by repealing subsections 6 and 11 of section 4 and respectively substituting the following subsections therefor:— 8 Edw. VII., c. 14, s. 4, subs 6 and 11, repealed.

(6) Every company owning, operating or using a railway shall pay a tax of $60 per mile for one track, and, where the line consists of two or more tracks, of $40 per mile for each additional track, owned, operated or used in any organized municipality; and of $40 per mile for one track, and, where the line consists of two or more tracks, of $20 per mile for each additional track, in territory without municipal organization; provided that a company owning, operating or using a railway which, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system does not exceed 150 miles in length from terminus to terminus, shall in lieu of the said tax pay a tax of $15 per mile for one track, and, where the line consists of two or more tracks, of $5 per mile for each additional track, and where the railway or system does not exceed thirty miles in length from terminus to terminus a tax of $10 per mile for one track and $5 per mile for each additional track. Tax on railways.

(11) Every express company operating over a railway in Ontario shall pay a tax of $500 for each 100 miles or fraction thereof. Express companies.

2. The said Act is further amended by inserting the following additional sections immediately after section 11:— 8 Edw. VII., c. 14, amended.

11*a*. There shall be levied a tax of two cents, payable in money or stamps, for every $100 or fraction thereof of the par value upon every change of ownership consequent upon Stamp tax on transfer of securities of corporation.

the sale, transfer or assignment of shares, bonds, debentures or debenture stock issued by any corporation or company made or carried into effect in this Province; but the first delivery by the corporation or company of such shares, bonds, debentures or debenture stock, in order to effect an issue, is not subject to the tax imposed by this article.

Transfer not to be made until tax paid.

11*b*. No corporation or company shall enter or permit the entry in any book or register under its control of any such sale, transfer or assignment unless the tax be paid when the entry is made. In default of payment of the tax the transferer and the transferee shall each be liable to a penalty not exceeding $, to be recovered at the suit of the Attorney-General.

Sales through brokers not members of stock exchange.

11*c*. Any sale, transfer, or assignment made through a broker resident in the Province not a member of a recognized stock exchange shall be deemed to be made and carried into effect in the Province.

Tax not to apply to transfers as security or transmission on death.

11*d*. The preceding three sections shall not apply to any transfer or assignment of shares, bonds or debentures or debenture stock made *bona fide* for the security of loans, or to the re-transfer or re-assignment of same to the borrower or any transmission owing to death.

Regulations.

11*e*. The Lieutenant-Governor in Council may make, amend, alter, revoke, repeal or re-enact all regulations which may be deemed necessary for carrying into effect sections 11*a*, 11*b*, 11*c* and 11*d*.

Commencement of section.

11*f*. This section shall not come into effect until the first day of June, 1911.

8 Edw. VII., c. 14, s. 17, subs. 4, repealed.

3. The said Act is further amended by repealing subsection 4 of section 17 and substituting the following subsection:—

Liability of municipalities to contribute to maintenance of lunatics.

(4) All questions as to the liability of a municipality to such charge shall be determined by an officer designated for that purpose by the Provincial Secretary, whose decision may at any time and from time to time be varied or cancelled by himself or by any other officer designated by the Provincial Secretary, and the certificate of the Provincial Secretary declaring the amount of such charge shall be accepted and acted upon by the Provincial Auditor without further evidence as determining the amount to be deducted under subsection 3 of this section.

8 Edw. VII., c. 14, s. 4, amended.

4. The said Act is further amended by adding the following subsections to section 4:—

(13) Every incorporated company, association or club, owning or operating or using a race track and holding race-meetings once or twice in each year at which there are running races, and which meetings continue for more than three days, shall pay in advance before each such race-meeting a license fee of $200 for each day of such meeting, and in default of such payment the Provincial police may, under instructions from the Provincial Treasurer, stop all racing upon such track until the said tax is paid. Tax upon race track meetings.

(14) Every incorporated company, association or club, owning, operating or using a driving or trotting track and holding race meetings, at which there are trotting or pacing races, which meetings continue for three days or less, shall pay in advance before each such meeting a license fee of $10 if the meeting continue for one day; a license fee of $40 if the meeting continue for two days; and a license fee of $60 if the meeting continue for three days, and in default of such payment the Provincial police may, under instructions from the Provincial Treasurer, stop all racing upon such track until the said tax is paid. Trotting and pacing meetings.

(15) On receiving the license fee referred to in sub-sections 13 and 14 of section 4 hereof, the Provincial Treasurer may issue a license imposing such restrictions and subject to such conditions as the Lieutenant-Governor in Council may by regulation determine, and every such incorporated company, association or club which violates such restrictions and conditions, or any of them, shall be liable to have all racing forthwith stopped upon its track by the Provincial police acting under instructions from the Provincial Treasurer. Licenses.

No. 177.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Supplementary Revenue Act.

First Reading, 28th day of Feb., 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 177. 1911.

BILL

An Act to amend The Supplementary Revenue Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Supplementary Revenue Act* is amended by repealing subsections 6 and 11 of section 4 and respectively substituting the following subsections therefor:— 8 Edw. VII., c. 14, s. 4, subs 6 and 11, repealed.

(6) Every company owning, operating or using a railway shall pay a tax of $60 per mile for one track, and, where the line consists of two or more tracks, of $40 per mile for each additional track, owned, operated or used in any organized municipality; and of $40 per mile for one track, and, where the line consists of two or more tracks, of $20 per mile for each additional track, in territory without municipal organization; provided that a company owning, operating or using a railway which, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system does not exceed 150 miles in length from terminus to terminus, shall in lieu of the said tax pay a tax of $15 per mile for one track, and, where the line consists of two or more tracks, of $5 per mile for each additional track, and where the railway or system does not exceed thirty miles in length from terminus to terminus a tax of $10 per mile for one track and $5 per mile for each additional track. Tax on railways.

(11) Every express company operating over a railway in Ontario shall pay a tax of $500 for each 100 miles or fraction thereof. Express companies.

2.—(1) The said tax is further amended by inserting the following additional sections immediately after section 11:— 8 Edw. VII., c. 14, amended.

11*a*. There shall be levied a tax of two cents, payable *by the transferee* in money or stamps, for every $100 or fraction thereof of the par value upon Stamp tax on transfer of securities of corporation.

every change of ownership consequent upon the sale, transfer or assignment of shares, or debenture stock issued by any corporation or company made or carried into effect in this Province; but the first delivery by the corporation or company of such shares, or debenture stock, in order to effect an issue, *shall not be* subject to the tax imposed by this *section*.

Transfer not to be made until tax paid.

11*b*. ☞Any corporation or company entering or permitting the entry in any book or register under its control of any such sale, transfer, or assignment unless the tax be paid when such entry is made, shall be liable to a penalty not exceeding $50 nor less than $20.☜

☞In default of payment of the tax, the transferee shall be liable to a penalty not exceeding $50, nor less than $20.☜

☞The penalties prescribed in this section shall be recoverable at the suit of the Attorney-General.☜

Sales through brokers not members of stock exchange.

11*c*. Any sale, transfer, or assignment made through a broker resident in the Province not a member of a recognized stock exchange shall be deemed to be made and carried into effect in the Province.

Tax not to apply to transfers as security or transmission on death.

11*d*. The preceding three sections shall not apply to any transfer or assignment of shares, or debenture stock made *bona fide* for the security of loans, or to the re-transfer or re-assignment of same to the borrower or any transmission owing to death.

Regulations.

11*e*. The Lieutenant-Governor in Council may make, amend, alter, revoke, repeal or re-enact all regulations which may be deemed necessary for carrying into effect sections 11*a*, 11*b*, 11*c* and 11*d*.

Commencement of section.

(2) This section shall not come into effect until the first day of June, 1911.

8 Edw. VII., c. 14, s. 17, subs. 4, repealed.

3. The said Act is further amended by repealing subsection 4 of section 17 and substituting the following subsection:—

Liability of municipalities to contribute to maintenance of lunatics.

(4) All questions as to the liability of a municipality to such charge shall be determined by an officer designated for that purpose by the Provincial Secretary, whose decision may at any time and from time to time be varied or cancelled by

himself or by any other officer designated by the Provincial Secretary, and the certificate of the Provincial Secretary declaring the amount of such charge shall be accepted and acted upon by the Provincial Auditor without further evidence as determining the amount to be deducted under subsection 3 of this section.

4. The said Act is further amended by adding the following subsections to section 4:— 8 Edw. VII., c. 14, s. 4, amended.

Tax upon race track meetings.

☞(13) In this subsection the word "race-meeting" shall mean a series of trotting, pacing, running, or mixed trotting, pacing or running races for horses, held for not less than five or more than seven days within any period of fourteen consecutive days.☜

Every incorporated company, association or club, owning or operating or using a race track and holding race-meetings, shall pay in advance before each such race-meeting a license fee of $200 for each day of such meeting, and in default of such payment the Provincial police may, under instructions from the Provincial Treasurer, stop all racing upon such track until the said tax is paid.

Trotting and pacing meetings.

☞(14) The word "race-meeting" in this subsection shall mean a series of trotting and pacing or mixed trotting, pacing and running races for horses which continue for not more than four days in a period of not more than ten consecutive days, and where the number of running races shall not exceed one in each day.☜

☞Every incorporated company, association or club, owning, operating or using a driving, running or trotting track, and holding race-meetings, shall pay in advance before each such meeting a license fee of $10 for each day on which such meeting continues, and in default of such payment the Provincial Police may, under instructions from the Provincial Treasurer, stop all racing on said tracks until such tax is paid.☜

Licenses.

(15) On receiving the license fee referred to in subsections 13 and 14 of section 4 hereof, the Provincial Treasurer may issue a license imposing such restrictions and subject to such conditions as the Lieutenant-Governor in Council may by regulation determine, and every such incorporated company, association or club which violates such restrictions and conditions, or any of them, shall be liable to have all racing forthwith stopped upon its track by the Provincial police acting under instructions from the Provincial Treasurer.

No. 177.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Supplementary Revenue Act.

1st Reading, 28th day of February, 1911.
2nd Reading, 1st day of March, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 177. 1911.

BILL

An Act to amend The Supplementary Revenue Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Supplementary Revenue Act* is amended by repealing subsections 6 and 11 of section 4 and respectively substituting the following subsections therefor:— 8 Edw. VII., c. 14, s. 4, subs 6 and 11, repealed.

(6) Every company owning, operating or using a railway shall pay a tax of $60 per mile for one track, and, where the line consists of two or more tracks, of $40 per mile for each additional track, owned, operated or used in any organized municipality; and of $40 per mile for one track, and, where the line consists of two or more tracks, of $20 per mile for each additional track, in territory without municipal organization; provided that a company owning, operating or using a railway which, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system does not exceed 150 miles in length from terminus to terminus, shall in lieu of the said tax pay a tax of $15 per mile for one track, and, where the line consists of two or more tracks, of $5 per mile for each additional track, and where the railway or system does not exceed thirty miles in length from terminus to terminus a tax of $10 per mile for one track and $5 per mile for each additional track. Tax on railways.

(11) Every express company operating over a railway in Ontario shall pay a tax of $500 for each 100 miles or fraction thereof. Express companies.

2.—(1) The said tax is further amended by inserting the following additional sections immediately after section 11:— 8 Edw. VII., c. 14, amended.

11*a*. There shall be levied a tax of two cents, payable *by the transferor* in money or stamps, for every $100 or fraction thereof of the par value upon Stamp tax on transfer of securities of corporation.

every change of ownership consequent upon the sale, transfer or assignment of shares, or debenture stock issued by any corporation or company made or carried into effect in this Province; but the first delivery by the corporation or company of such shares, or debenture stock, in order to effect an issue, *shall not be* subject to the tax imposed by this *section.*

Transfer not to be made until tax paid.

11*b*. ☞Any corporation or company entering or permitting the entry in any book or register under its control of any such sale, transfer, or assignment unless the tax be paid when such entry is made, shall be liable to a penalty not exceeding $50 nor less than $20.☜

☞In default of payment of the tax, the transferee shall be liable to a penalty not exceeding $50, nor less than $20.☜

☞The penalties prescribed in this section shall be recoverable at the suit of the Attorney-General.☜

Sales through brokers not members of stock exchange.

11*c*. Any sale, transfer, or assignment made through a broker resident in the Province not a member of a recognized stock exchange shall be deemed to be made and carried into effect in the Province.

Tax not to apply to transfers as security or transmission on death.

11*d*. The preceding three sections shall not apply to any transfer or assignment of shares, or debenture stock made *bona fide* for the security of loans, or to the re-transfer or re-assignment of same to the borrower or any transmission owing to death.

☞11*e*. The Lieutenant-Governor in Council may remit or reduce any tax imposed by section 11*a* hereof which, because of the transfer being otherwise subject to taxation in another jurisdiction, or because several formal transfers are necessary to effect one true change of ownership, or which from any other similar cause appears to be unjust or oppressive.☜

Regulations.

11*f*. The Lieutenant-Governor in Council may make, amend, alter, revoke, repeal or re-enact all regulations which may be deemed necessary for carrying into effect sections 11*a*, 11*b*, 11*c* and 11*d*.

(2) This section *save* 11*f* shall not come into effect until the first day of June, 1911. Commencement of section.

3. The said Act is further amended by repealing subsection 4 of section 17 and substituting the following subsection:— 8 Edw. VII., c. 14, s. 17, subs. 4, repealed.

(4) All questions as to the liability of a municipality to such charge shall be determined by an officer designated for that purpose by the Provincial Secretary, whose decision may at any time and from time to time be varied or cancelled by himself or by any other officer designated by the Provincial Secretary, and the certificate of the Provincial Secretary declaring the amount of such charge shall be accepted and acted upon by the Provincial Auditor without further evidence as determining the amount to be deducted under subsection 3 of this section. Liability of municipalities to contribute to maintenance of lunatics.

4. The said Act is further amended by adding the following subsections to section 4:— 8 Edw. VII., c. 14, s. 4, amended.

(13) In this subsection the word "race-meeting" shall mean a series of trotting, pacing, running, or mixed trotting, pacing or running races for horses, held for not less than five or more than seven days within any period of fourteen consecutive days, or if held for less than five days where the number of running races exceeds one in each day. Tax upon race track meetings.

Every incorporated company, association or club, owning or operating or using a race track and holding race-meetings, shall pay in advance before each such race-meeting a license fee of $200 for each day of such meeting, and in default of such payment the Provincial police may, under instructions from the Provincial Treasurer, stop all racing upon such track until the said tax is paid.

(14) The word "race-meeting" in this subsection shall mean a series of trotting and pacing or mixed trotting, pacing and running races for horses which continue for not more than four days in a period of not more than ten consecutive days, and where the number of running races shall not exceed one in each day. Trotting and pacing meetings.

Every incorporated company, association or club, owning, operating or using a driving, running or trotting track, and holding race-meetings, shall pay in advance before each such meeting a license fee of $10 for each day on which such meeting continues, and in default of such payment the Provincial Police may, under instructions from the Provincial Treasurer, stop all racing on said tracks until such tax is paid.

Licenses.

(15) On receiving the license fee referred to in subsections 13 and 14 of section 4 hereof, the Provincial Treasurer may issue a license imposing such restrictions and subject to such conditions as the Lieutenant-Governor in Council may by regulation determine, and every such incorporated company, association or club which violates such restrictions and conditions, or any of them, shall be liable to have all racing forthwith stopped upon its track by the Provincial police acting under instructions from the Provincial Treasurer.

No. 177.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Supplementary Revenue Act.

1st Reading, 28th day of February, 1911.
2nd Reading, 1st day of March, 1911.

(Reprinted again as amended in Committee of the Whole House.)

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 178. 1911.

BILL

An Act to amend the Liquor License Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Increase in license duties imposed by 6 Edw. VII., c. 47, s. 10, and 9 Edw. VII., c. 82, s. 38.

1. The License duties payable for tavern licenses, other than beer and wine licenses, under the provisions of the Act passed in the sixth year of the reign of His late Majesty, King Edward the Seventh, chapter 47, section 10, subsection 1, as amended by the Act passed in the ninth year of the reign of His said Majesty, chapter 82, section 38, shall be and they are hereby increased by the addition to the sums set forth in the said Acts of a sum in the case of each such license equal to five per cent. of the amount by which the gross receipts from sales under such licenses wherever made, together with sales of cigars, cigarettes, tobacco or drinks or drinkable liquids other than liquor, or of any service or privilege, when made over, at, in or from the bar or bar-room of the licensed premises or for use or consumption at or in such bar or bar-room, shall in each day exceed the sum of forty dollars.

Addition to be based on receipts.

Monthly returns of receipts from gross sales.

2. On or before the tenth day of each calendar month the holder of each such license shall file with the Minister a statement under oath, made by such person or persons and in such form as may be directed by the Minister, of the amount of his gross sales as aforesaid for each day of the preceding calendar month and shall accompany such statement with payment of the amount, if any, due for such month under the provisions of section 1 of this Act. The oath required to be taken under this section may be taken before a commissioner for taking affidavits, a notary public or a justice of the peace.

Penalty for not making returns or payments.

3. Notwithstanding anything in this Act contained any holder of any such license who shall make default in the filing of any statement or in the making of any payment re-

quired by this Act shall be liable to a penalty of $10 for each day during which such default continues, and so for each such default, though running concurrently with other defaults, but such penalty or any portion thereof may be remitted by the Minister in his discretion. Upon the report of the Minister that any such default has continued for more than thirty days or that the statement filed by the holder of such license is false or that the holder of such license has failed after notice to comply with any regulation made pursuant to section 4 of this Act, an Order-in-Council may be passed cancelling such license and the same shall thereupon become null and void to all intents and purposes whatsoever. Such Order-in-Council may further provide for the disqualification for any period not exceeding three years of the holder of such license from obtaining any further or other license under the Liquor License Act.

Regulations by Lieutenant-Governor-in-Council.

4. The Lieutenant-Governor-in-Council may from time to time make regulations as hereinafter set forth, which regulations shall have all the effect of a statute and shall take effect from the date of the making thereof. Such regulations, amongst other things, in the case of any license falling within the provisions of this Act, may require the keeping of accounts and the handling of cash by the holder of such license in such manner as may be directed and the furnishing by such holder of such further evidence as may be directed as to the correctness of the statement to be filed pursuant to this Act, may provide for the holding of investigations into the correctness of such statement with such provisions as to the taking of evidence on oath, the summoning of witnesses, the enforcing of their attendance and the giving of testimony by them, the compelling of the production of books and documents, the disposition of the costs of the investigation and otherwise as may be thought desirable, may authorize entry upon the licensed premises, the examining and auditing of the accounts thereof and the taking over in whole or in part and for such time as may be required of the conduct of the business therein carried on for the purpose of enquiring as to the correctness of statements filed or to be filed pursuant to the provisions of this Act, the whole with or without the consent of the holder of such license, and, if so directed, at his expense, and, without being limited to the particulars above set forth, may contain such provisions as shall be deemed desirable for ensuring the better enforcement of this Act, and may also contain provisions applicable to the holders of any license under *The Liquor License Act,* or *The Act respecting Brewers and Distillers,* and other licenses of the same general character as the provisions above specified though not required for the purposes above stated, and may provide for the enforcement of any of the regulations herein

Rev. Stat., c. 245; 62 V. (2), c. 31.

mentioned by suspension of the license of the holder in question until such holder has complied with such regulations.

Additional duties not to be considered.

5. The addition to the license duties made by this Act shall not be taken into account in arriving at the sum payable for the transfer of a tavern license.

Information to be confidential.

6. Except as regards the total amount of license fees received under this Act for each license district, information obtained under this Act shall not be disclosed except to officers of the Government in the exercise of their duties.

Application of 6 Edw. VII., c. 47, s. 11.

7. The provisions of the Act passed in the sixth year of the reign of His late Majesty, King Edward the Seventh, chapter 47, section 11, shall be read as applying to and having reference to the license duties otherwise payable and without the addition provided for in this Act, and shall continue to have full force and effect accordingly.

Duties to be payable for use of the Province.

8. Notwithstanding anything in *The Liquor License Act* contained all sums payable under the provisions of this Act by way of license duties shall be payable to the Treasurer of the Province to and for the exclusive use of the Province.

Rev. Stat., c. 245, s. 20, amended.

9. Section 20 of *The Liquor License Act* is amended by adding to subsection 1 thereof the following words, "and no such by-law shall be quashed or set aside on the ground only that a monopoly has been created by such limitation"; and by adding to subsection 2 thereof the following words, "and during the time such by-law is in force no greater number of licenses shall be issued than as therein limited."

Rev. Stat., c. 245, s. 36, amended.

10. Section 36 of the Liquor License Act is amended by striking out in the second, third and fourth lines of said section the words, "in quantities of not less than one gallon or two bottles of not less than three half pints each at one time," and inserting instead thereof the words "in wholesale quantities only as required in the case of a wholesale license under this Act."

6 Edw. VII., c. 47, s. 25, subs. 1, amended.

11. Subsection 1 of section 25 of the Act passed in the sixth year of the Reign of His late Majesty King Edward the Seventh, chaptered 47, as amended by section 41 of the Act passed in the ninth year of the reign of His late Majesty, chaptered 82, is further amended by adding after the word "druggist" in clause A of said last mentioned section the words "or by the holder of a tavern or shop license."

6 Edw. VII., c. 47, s. 23, subs. 1, amended.

12. Subsection 1 of section 23 of the Act passed in the sixth year of the Reign of His late Majesty King Edward the Seventh, chaptered 47 is amended by striking out in

the third, fourth and fifth lines thereof the words " a tavern, shop or wholesale license to any person for premises situate in a Provisional Judicial District," and inserting in the place thereof the words " a tavern or shop license to any person for premises situate in any License District," and by adding at the end of the said subsection the following clauses:—

Discretion of Minister as to refusing license to brewer or distiller's warehouse.

(*a*) The minister may also in any case refuse to issue a wholesale license or a Brewer's or Distiller's Warehouse license if he deems such refusal expedient in the public interest.

Keeping liquor for sale on unlicensed premises.

(*b*) Any person who keeps liquor on unlicensed premises for sale or delivery either by wholesale or retail shall be guilty of an offence against the Liquor License Act.

Rev. Stat., c. 245, s. 101, subs. 1, amended.

13. Subsection 1 of section 101 of the Liquor License Act is amended by adding after the word " then " in the third line of said subsection the words " if present " and by adding after the word " question " in the eighth line the words " or if he is not present."

6 Edw. VII., c. 47, s. 24, amended.

14. Subsection 6 of section 141 of the Liquor License Act as enacted by section 24 of the Act passed in the sixth year of the Reign of His late Majesty King Edward the Seventh, chaptered 47, is amended by striking out all the words therein beginning with the word " provided " in the eleventh line thereof.

Rev. Stat., c. 245, s. 124, subss. 2, 3, repealed.

15. Section 124 of the Liquor License Act is amended by striking out subsections 2 and 3 of said section and substituting therefor the following:

Application of provisions as to notifying licensees not to sell liquor to certain persons.

(2) All the provisions of section 125 of this Act not inconsistent with subsection 1 of this section shall be read as forming part of this section and shall *mutatis mutandis* apply in a case under this section as if the same had been expressly re-enacted as part hereof, and it shall be the duty of the License Inspector of any License District when required so to do to serve within his own district any notice or notices of or concerning any action taken by a Police Magistrate or Justices under this section as if such notice or notices had been given under said section 125.

62 V. (2), c. 31, s. 4, subs. 1, amended.

16. Subsection 1 of section 4 of the Act passed in the sixty-second year of the Reign of Her late Majesty Queen Victoria, chaptered 31, as amended by section 47 of the Act passed in the ninth year of the Reign of His late Majesty

King Edward the Seventh, chaptered 82, is further amended by inserting the words "last mentioned" after the word "such" in the fifth line of said section 47.

17. Section 141 of *The Liquor License Act* is amended by adding thereto the following subsection: Rev. Stat. c. 245, s. 141, amended.

(9) Whenever an appropriation is made by the Legislature for enforcing *The Liquor License Act* in Local Option Districts the Minister in any case in which a by-law passed under subsection 1 of this section is in force in any municipality in any License District in this Province may by his order direct the payment out of such appropriation of any sum which he may think necessary to enforce said Act in such License District or any part thereof, including the payment of the salary and expenses or any part thereof of the License Inspector for such district. Payment of expenses of enforcing local option by-law.

18. This Act shall be incorporated with and shall be read as part of the Liquor License Act. Act incorporated with Rev. Stat., c. 245.

No. 178.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Liquor License Act.

1st Reading, 28th February, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 178. 1911.

BILL

An Act to amend The Liquor License Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Increase in license duties imposed by 6 Edw. VII., c. 47, s. 10, and 9 Edw. VII., c. 82, s. 38.

1. The License duties payable for tavern licenses, other than beer and wine licenses, under the provisions of the Act passed in the sixth year of the reign of His late Majesty, King Edward the Seventh, chapter 47, section 10, sub-section 1, as amended by the Act passed in the ninth year of the reign of His said Majesty, chapter 82, section 38, shall be and they are hereby increased by the addition to the sums set forth in the said Acts of a sum in the case of each such license equal to five per cent. of the amount by which the gross receipts from sales under such licenses wherever made, together with sales of cigars, cigarettes, tobacco or drinks or drinkable liquids other than liquor, or of any service or privilege, when made over, at, in or from the bar or bar-room of the licensed premises or for use or consumption at or in such bar or bar-room, shall in each day exceed the sum of fifty dollars.

Addition to be based on receipts.

Monthly returns of receipts from gross sales.

2. On or before the tenth day of each calendar month the holder of each such license shall file with the Minister a statement under oath, made by such person or persons and in such form as may be directed by the Minister, of the amount of his gross sales as aforesaid for each day of the preceding calendar month and shall accompany such statement with payment of the amount, if any, due for such month under the provisions of section 1 of this Act. The oath required to be taken under this section may be taken before a commissioner for taking affidavits, a notary public or a justice of the peace.

Penalty for not making returns or payments.

3. Notwithstanding anything in this Act contained any holder of any such license who shall make default in the filing of any statement or in the making of any payment re-

quired by this Act shall be liable to a penalty of $10 for each day during which such default continues, and so for each such default, though running concurrently with other defaults, but such penalty or any portion thereof may be remitted by the Minister in his discretion. Upon the report of the Minister that any such default has continued for more than thirty days or that the statement filed by the holder of such license is false or that the holder of such license has failed after notice to comply with any regulation made pursuant to section 4 of this Act, an Order-in-Council may be passed cancelling such license and the same shall thereupon become null and void to all intents and purposes whatsoever. Such Order-in-Council may further provide for the disqualification for any period not exceeding three years of the holder of such license from obtaining any further or other license under the Liquor License Act.

Regulations by Lieutenant-Governor-in-Council.

4. The Lieutenant-Governor-in-Council may from time to time make regulations as hereinafter set forth, which regulations shall have all the effect of a statute and shall take effect from the date of the making thereof. Such regulations, amongst other things, in the case of any license falling within the provisions of this Act, may require the keeping of accounts and the handling of cash by the holder of such license in such manner as may be directed and the furnishing by such holder of such further evidence as may be directed as to the correctness of the statement to be filed pursuant to this Act, may provide for the holding of investigations into the correctness of such statement with such provisions as to the taking of evidence on oath, the summoning of witnesses, the enforcing of their attendance and the giving of testimony by them, the compelling of the production of books and documents, the disposition of the costs of the investigation and otherwise as may be thought desirable, may authorize entry upon the licensed premises, the examining and auditing of the accounts thereof and the taking over in whole or in part and for such time as may be required of the conduct of the business therein carried on for the purpose of enquiring as to the correctness of statements filed or to be filed pursuant to the provisions of this Act, the whole with or without the consent of the holder of such license, and, if so directed, at his expense, and, without being limited to the particulars above set forth, may contain such provisions as shall be deemed desirable for ensuring the better enforcement of this Act, and may also contain provisions applicable to the holders of any license under *The Liquor License Act,* or *The Act respecting Brewers and Distillers,* and other licenses of the same general character as the provisions above specified though not required for the purposes above stated, and may provide for the enforcement of any of the regulations herein

Rev. Stat., c. 245; 62 V. (2), c. 31.

mentioned by suspension of the license of the holder in question until such holder has complied with such regulations.

5. The addition to the license duties made by this Act shall not be taken into account in arriving at the sum payable for the transfer of a tavern license. Additional duties not to be considered.

6. Except as regards the total amount of license fees received under this Act for each license district, information obtained under this Act shall not be disclosed except to officers of the Government in the exercise of their duties. Information to be confidential.

7. The provisions of the Act passed in the sixth year of the reign of His late Majesty, King Edward the Seventh, chapter 47, section 11, shall be read as applying to and having reference to the license duties otherwise payable and without the addition provided for in this Act, and shall continue to have full force and effect accordingly. Application of 6 Edw. VII., c. 47, s. 11.

8. Notwithstanding anything in *The Liquor License Act* contained all sums payable under the provisions of this Act by way of license duties shall be payable to the Treasurer of the Province to and for the exclusive use of the Province. Duties to be payable for use of the Province.

☞ (*a*) The preceding eight sections of this Act shall come into force on the first day of May, 1911. ☜

9. Section 20 of *The Liquor License Act* is amended by adding to subsection 1 thereof the following words, "and no such by-law shall be quashed or set aside on the ground only that a monopoly has been created by such limitation"; and by adding to subsection 2 thereof the following words, "and during the time such by-law is in force no greater number of licenses shall be issued than as therein limited." Rev. Stat., c. 245, s. 20, amended.

10. Section 36 of the Liquor License Act is amended by striking out in the second, third and fourth lines of said section the words, "in quantities of not less than one gallon or two bottles of not less than three half pints each at one time," and inserting instead thereof the words "in wholesale quantities only as required in the case of a wholesale license under this Act," ☞ and by adding at the beginning of said section the following words: "Subject to any regulations or restrictions which the Lieutenant-Governor-in-Council may impose." ☜ Rev. Stat., c. 245, s. 36, amended.

11. Subsection 1 of section 25 of the Act passed in the sixth year of the Reign of His late Majesty King Edward the Seventh, chaptered 47, as amended by section 41 of the Act passed in the ninth year of the reign of His late Majesty, 6 Edw. VII., c. 47, s. 25, subs. 1, amended.

chaptered 82, is further amended by adding after the word "druggist" in clause A of said last mentioned section the words "or by the holder of a tavern or shop license."

6 Edw. VII., c. 47, s. 23, subs. 1, amended.

12. Subsection 1 of section 23 of the Act passed in the sixth year of the Reign of His late Majesty King Edward the Seventh, chaptered 47 is amended by striking out in the third, fourth and fifth lines thereof the words "a tavern, shop or wholesale license to any person for premises situate in a Provisional Judicial District," and inserting in the place thereof the words "a tavern or shop license to any person for premises situate in any License District," and by adding at the end of the said subsection the following clauses:—

Discretion of Minister as to refusing license to brewer or distiller's warehouse.

(*a*) The minister may also in any case refuse to issue a wholesale license or a Brewer's or Distiller's Warehouse license if he deems such refusal expedient in the public interest.

Rev. Stat., c. 245, s. 101, subs. 1, amended.

13. Subsection 1 of section 101 of the Liquor License Act is amended by adding after the word "then" in the third line of said subsection the words "if present" and by adding after the word "question" in the eighth line the words "or if he is not present."

Rev. Stat., c. 245, s. 124, subss. 2, 3, repealed.

14. Section 124 of the Liquor License Act is amended by striking out subsections 2 and 3 of said section and substituting therefor the following:

Application of provisions as to notifying licensees not to sell liquor to certain persons.

(2) All the provisions of section 125 of this Act not inconsistent with subsection 1 of this section shall be read as forming part of this section and shall *mutatis mutandis* apply in a case under this section as if the same had been expressly re-enacted as part hereof, and it shall be the duty of the License Inspector of any License District when required so to do to serve within his own district any notice or notices of or concerning any action taken by a Police Magistrate or Justices under this section as if such notice or notices had been given under said section 125.

62 V. (2), c. 31, s. 4, subs. 1, amended.

15. Subsection 1 of section 4 of the Act passed in the sixty-second year of the Reign of Her late Majesty Queen Victoria, chaptered 31, as amended by section 47 of the Act passed in the ninth year of the Reign of His late Majesty King Edward the Seventh, chaptered 82, is further amended by inserting the words "last mentioned" after the word "such" in the fifth line of said section 47.

Rev. Stat., c. 245, s. 141, amended.

16. Section 141 of *The Liquor License Act* is amended by adding thereto the following subsection:

(9) Whenever an appropriation is made by the Legislature for enforcing *The Liquor License Act* in Local Option Districts the Minister in any case in which a by-law passed under subsection 1 of this section is in force in any municipality in any License District in this Province may by his order direct the payment out of such appropriation of any sum which he may think necessary to enforce said Act in such License District or any part thereof, including the payment of the salary and expenses or any part thereof of the License Inspector for such district. Payment of expenses of enforcing local option by-law.

17. ☞ Section 133*a* of *The Liquor License Act* as enacted by section 32 of an Act passed in the ninth year of the reign of His late Majesty King Edward the Seventh, chaptered 82, is amended by adding at the end of subsection 2 of said section the following words: " or if he finds either upon the public highway or elsewhere, any trunk, box, valise, bag or other receptacle whatever which he believes contains liquor for sale in contravention of this Act he may forthwith seize and remove the same together with the package or packages in which such liquor is contained whether in the custody of or under the control of any person or not." ☜

18. ☞ Subsection 14 of section 11 of *The Liquor License Act* is amended by adding after the word " grounds " in the twenty-first line of said subsection the following words: "Nor shall it apply to an applicant for a six months' license under section 21 of said Act, where the person applying therefor was the holder of a similar license for six months or some part thereof of the preceding year for the same premises." ☜

19. ☞ Subsection 1 of section 20 of *The Liquor License Act* is amended by striking out the word "city" in the first line thereof. ☜

20. ☞ *The Liquor License Act* is amended by adding thereto the following section: ☜

☞ 20*a*.—(1) If a petition in writing signed by at least ten per cent. of the total number of persons appearing by the last revised voters' list of a city to be qualified to vote at municipal elections is filed with the clerk of the city on or before the 1st day of November in any year, praying for the submission of a by-law to the electors limiting the number of tavern or shop licenses or both tavern and shop licenses to be issued in the city for the next ensuing license year, beginning on the 1st day of May and for subsequent years

until such by-law is repealed, and if the number of such licenses stated in the petition is within the limit fixed by this Act, it shall be the duty of the council to submit such by-law to the vote of the electors of the municipality qualified to vote at municipal elections in the city in the manner provided by *The Consolidated Municipal Act, 1903,* and the amendments thereto.

(2) The day fixed by the by-law for taking the vote of the electors thereon shall be the day upon which under *The Consolidated Municipal Act, 1903,* or any by-law passed under the said Act, a poll would be held for the annual election of members of the municipal council.

(3) If a majority of the electors voting upon the by-law assent to the same, the council shall within six weeks thereafter finally pass the by-law and this section shall be construed as compulsory and the duty so imposed upon the council may be enforced at the instance of any municipal elector by mandamus or otherwise.

(4) After the submission of the by-law, no by-law repealing or amending the same shall be submitted to the electors before the day of polling for the third annual election to be held after that at which the voting on the first mentioned by-law took place, but this shall not affect the submission at any municipal election of a by-law under section 141 of this Act.

(5) The clerk of the municipality shall deliver a certified copy of every by-law passed under this section to the Board immediately after the passing thereof.

21. Notwithstanding anything in section 141 of *The Liquor License Act,* or the amendments thereto, no person shall vote upon any by-law submitted to the electors under *that* section, or the amendments thereto, who is not at the date of taking the vote on such by-law and has not been for three months before that date a *bona fide* resident of the municipality to which the by-law relates.

22. Notwithstanding anything in the said section or the amendments thereto, or in *The Consolidated Municipal Act, 1903,* or the amendments thereto, the oath to be taken by any person offering to vote upon any such by-law shall be as follows:—

You swear (*or* solemnly affirm) that you are the person named (*or* intended to be named) by the name of
in the list (*or* supplementary list) of voters now shown to you (*showing the list to the voter*);

And in the case of a married woman or widow claiming to vote,

That you are unmarried (*or* a widow, *as the case may be*);

And in the case of a freeholder,

That at the date of this election you are in your own right (*or* your wife is) a freeholder within this municipality.

And in the case of a tenant,

That you were (*or* your wife was) actually, truly and in good faith possessed to your (*or* her) own use and benefit as tenant of the real estate in respect of which your name is entered on the said list;

That you are (*or* your wife is) a tenant within this municipality;

And in the case of a person claiming to vote in respect of income,

That on the day of 19 (*the day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based, or at the option of the voter the day certified by the clerk as the last day for making complaint to the county judge with respect to such voters' list*) you were and thenceforward have been continuously and still are a resident of this municipality.

That at the said date and for twelve months previously you were in receipt of an income from your trade (office, calling *or* profession, *as the case may be*) of a sum of not less than $400;

And in the case of a person claiming to vote as a farmer's son,

That on the day of 1911 (*the day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based, or at the option of the voter the day certified by the clerk as the last day for making complaints to the county judge with respect to such voters' list*),

A. B. (*naming him or her*) was actually, truly and in good faith possessed to his (*or* her) own use and benefit as owner (*or* as tenant under a lease the term of which was not less than five years), as you verily believe, of the lands in respect of which your name was entered on the said list.

That you are a son (*or* stepson) of the said A. B.

That you resided on the said property for twelve months next before the said day, not having been absent during that period except temporarily and for not more than six months in all.

That you are not a citizen or subject of any foreign country.

That you are a natural born (*or* naturalized) subject of His Majesty and of the full age of twenty-one years.

That you have not voted before upon this by-law, either at this or at any other polling place.

That you are a *bona fide* resident of this municipality and have continuously resided therein for three months prior to this date,

(*And in the case of a municipality divided into polling sub-divisions*),

That you reside in this polling sub-division (*or* that you are not entitled to vote in the polling sub-division in which you reside),

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender upon this by-law.

That you have not received anything, nor has anything been promised to you directly or indirectly either to induce you to vote upon this by-law, or for loss of time, travelling expenses, hire of team or any other service connected with the submission of the by-law.

That you have not directly or indirectly paid or promised anything to any person either to induce him to vote or to refrain from voting upon this by-law.

So help you God.

(*In the case of a new municipality in which there has not been any assessment roll, then instead of referring to the list of voters the person offering to vote as a freeholder or tenant may be required to state in the oath the property in respect of which he claims to vote.*)

Voter's list not to be final in certain cases.

23. Notwithstanding the provisions of section 24 of *The Ontario Voters List Act* the certified list mentioned in that section shall not be final and conclusive as therein mentioned as to persons who were not at the date of taking the vote on such by-law or have not been for three months before that date *bona fide* residents of the municipality to which the by-law relates.

24. This Act shall be incorporated with and shall be read as part of *The Liquor License Act.*

No. 178.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Liquor License Act.

1st Reading, 28th February, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 179. 1911.

BILL

An Act to Further Regulate the Sale of Alcohol by Chemists.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 1 of the Act passed in the sixty-first year of the reign of Her late Majesty Queen Victoria, chaptered 30, is amended by striking out all the words down to and including the words "intoxicating liquor" in the sixth line of the said section and substituting therefor the following words: 61 V., c. 30, s. 1, amended.

1. The words "pharmaceutical chemist" or the word "chemist" when used in this Act shall mean a duly qualified and registered chemist; the word "alcohol" shall mean "ethylic" or absolute alcohol; the words "wholesale druggist" shall mean a person, firm or company engaged in supplying chemists or druggists with drugs, patent or proprietary medicines, compounds, preparations or other articles and commodities usually kept and dealt in by chemists or druggists. Interpretation "Pharmaceutical chemist," "Alcohol," "Wholesale druggist."

2. Section 3 of the said Act is amended by striking out the last four words of said section, and by adding at the end thereof the following words:— 61 V., c. 30, s. 3, amended.

Provided, however, that if any such compound, mixture or preparation as aforesaid containing more than two and one-half per cent. of alcohol is not prepared according to the formula of the British Pharmacopœia or other recognized standard work as hereinbefore mentioned the same shall not be sold or offered for sale in this Province unless Printing of formula where preparation contains more than two and a half per cent. of alcohol.

the formula in accordance with which it is prepared is either printed plainly upon a label or wrapper affixed to the bottle or package in which such compound, mixture or preparation is contained or a copy of such formula, verified by affidavit, has been deposited in the office of the Provincial Secretary of Ontario at Toronto, and such affidavit shall be in the form prescribed by the Provincial Secretary aforesaid, and any neglect or omission to comply with the requirements of this proviso shall be an offence against the Liquor License Act, and the sale of any such compound, mixture or preparation during the continuance of such neglect or omission shall be conclusively deemed a colourable device for the evasion of the Liquor License Act within the meaning of section 7 of this Act and may be dealt with accordingly. And should any such compound, mixture or preparation purporting to be prepared in accordance with any formula appearing upon the label or wrapper affixed to any bottle or package or filed in the office of the Provincial Secretary as aforesaid be found to contain a larger amount of alcohol than is required to hold the medicinal constituents thereof in solution or to prevent fermentation, or should such compound, mixture or preparation purporting to be prepared according to such formula be found at any time to contain a larger percentage of alcohol than is set out in such formula the person selling the same shall be conclusively deemed to be guilty of a colourable device for the evasion of the Liquor License Act within the the meaning of section 7 of this Act, and may be dealt with accordingly.

Commencement of section.

(*a*) This section shall come into force on the first day of July, 1911.

61 V., c. 30, amended.

3. The said Act is further amended by adding thereto the following section:—

Chemist keeping liquor on premises for domestic use.

10 (*a*) Any chemist may keep or have upon his premises, for his own domestic use, a reasonable quantity of beer, ale, porter or lager beer, and may keep or have upon his premises or elsewhere for use in his business "ethylic" or absolute alcohol, and may keep or have upon his premises or elsewhere for domestic use or for use in his business any other kind of liquor to the extent of

ten gallons, but not more; but except as aforesaid no chemist shall, without the license therefor by law required, keep or have upon his premises or elsewhere any liquor whatever, and the keeping or having upon his premises or elsewhere by a chemist, without such license, of any liquor save as aforesaid shall be conclusive evidence that the same was kept by him for sale in contravention of this Act, and such liquor may in such case be seized and dealt with in all respects as liquor unlawfully kept for sale on unlicensed premises; and in the case of "ethylic" or absolute alcohol kept by such chemist upon his premises or elsewhere, should a Justice of the Peace or Police Magistrate having jurisdiction find that the quantity kept was larger than was reasonably required, having regard to the circumstances of the case, such chemist may be found guilty of keeping liquor for sale in contravention of this Act.

Penalty for sale by chemist without license.

(*b*) Any chemist who keeps for sale or who sells or barters any liquor without the license therefor by law required, unless expressly authorized so to do by statute, or unless covered by the saving clauses of this Act, shall for the first offence on conviction thereof be liable to the penalties set out in section 72 of the Liquor License Act for selling, and for a second or any subsequent offence shall on conviction thereof be liable to the penalty prescribed by said section 72 as for a second offence for selling, and in addition thereto his certificate authorizing him to carry on the business of a "chemist and druggist" in this Province shall *ipso facto* be void and be of no force or effect whatever for a period of two years from the date of his conviction, a copy of which shall forthwith be sent to the Registrar of the Ontario College of Pharmacy, nor until the Council of said College shall see fit in its discretion, after the expiration of the said period of two years to reinstate such chemist, who shall not in the meantime be eligible as a member, director or shareholder of any incorporated company dealing in drugs or medicine in this Province.

Sworn statement as to amount of liquor sold.

(*c*) Every chemist shall within seven days of demand by the Minister supply the Minister with a written statement on oath of the amount and kind of liquor purchased by him during the period

specified in such demand, the dates when and the persons from whom such liquor was purchased. Such oath may be taken before a commissioner for taking affidavits, a notary public or a justice of the peace. Any default in supplying such statement shall be punishable by a penalty of twenty dollars for each day during which such default continues.

Penalty.

Sales by wholesale druggists.

(*d*) A wholesale druggist may, notwithstanding anything contained in the Liquor License Act, sell to a duly qualified and registered chemist or chemist and druggist "ethylic" or absolute alcohol for use in his business as such chemist and druggist, but this provision shall only apply to wholesale druggists who have filed with the License Branch at Toronto a certificate (which shall be annually renewed not later than the first day of May in each year) signed by the Registrar of the Ontario College of Pharmacy that the holder of such certificate is a wholesade druggist within the meaning of this Act.

No. 179.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Further Regulate the Sale of Alcohol by Chemists.

1st Reading, 28th February, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 180. 1911.

BILL

The Fair Wages and Hours of Labour Regulation Act, 1911.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Fair Wages and Hours of Labour Regulation Act, 1910."* Short title.

PRELIMINARY.

2. In this Act Interpretation.

"Employer" means:— "Employer."

(*a*) Any person for whom a workman or shop-assistant works, and includes any contractor, agent, manager, foreman, or other person acting or apparently acting in the control of any workman as herein defined;

(*b*) Any person, company, or association employing persons in a factory, warehouse or shop, or other place used as a factory, warehouse or shop as defined by *The Factories Act;* Rev. Stat., c. 256.

(*c*) Any municipal corporation, railway company using steam or electricity as a motive power, electric light and power company and telephone and telegraph company;

(*d*) And generally all persons who employ workmen in any branch of work and labour.

"Workman" means:— "Workman."

(*a*) Any person employed at any handicraft or in preparing or manufacturing any article for trade

or sale by piece work or otherwise; and includes any person employed in a bake-house, laundry or dye-works;

(*b*) Any person who is employed or works in a factory, warehouse or shop of any kind of work whatever;

(*c*) Any person who works at any trade or business including unskilled labourers;

(*d*) All persons, male and female, over the age of twenty-one years.

Hours of labour.

3. Eight hours a day shall constitute a legal day's work for all workmen employed within the meaning of this Act, and no workman shall be required or permitted to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property.

Overtime.

4. A workman shall be deemed to work overtime when he works more than forty-eight hours in any week. Every workman who works overtime shall be paid at the rate of one and one-half times the rate per hour at which he is engaged and paid; and in no case shall he receive for such overtime less than forty cents per hour or fraction thereof.

Minimum wage.

5. Notwithstanding any agreement or understanding to the contrary made by a workman with his employer, no workman shall be employed and paid at less than twenty cents per hour, irrespective of any amount earned at overtime.

Child labour

6. No male infant under the age of eighteen years, and no female infant shall be allowed to work longer than eight hours each day and at such rate of wages for work performed whether by piece work or otherwise as shall be fair and reasonable.

The Minister of Agriculture or such officer as he shall appoint is hereby empowered to investigate and fix the rate of wages to be paid to such infants in the various classes of work in which they may be employed.

Penalty.

7. If any employer fails to observe and carry out the provisions of this Act, he shall be liable on conviction to a penalty not exceeding one hundred dollars, and the provisions of *The Act respecting Master and Servant* shall, so far as applicable, apply to this Act.

Rev. Stat., c. 157.

SUPPLEMENTAL.

Employers to keep records of overtime work.

8.—(1) Every employer shall

(*a*) Keep a record, in the form prescribed, of overtime worked by such of his workmen or shop-assistants as are males;

(*b*) Produce such record and furnish extracts therefrom to an inspector appointed as hereinafter provided when called upon to do so.

Penalty.

(2) If any employer fails to carry out any of the provisions of this section he shall be liable to a penalty not exceeding fifty dollars.

Powers of Inspectors under Factories Act. Rev. Stat., c. 256.

9.—(1) An inspector appointed under *The Ontario Factories Act* may, in addition to the powers thereby conferred on him,

(*a*) At any reasonable hour, by day or night, enter any building, room or place, where he has reasonable cause to believe a workman or shop-assistant is employed;

(*b*) Examine any workman or shop-assistant, either alone or in the presence of any other person, with respect to any matter dealt with in this Act, and require him to sign a declaration of the truth of the matters in respect of which he is so examined;

(*c*) Require the production of and examine and take extracts from any record required by this Act to be kept.

Penalties.

(2) Any person who obstructs any such inspector in the exercise of his powers under this section, or who by word or act or by concealing any person, prevents the examination as aforesaid of any workman or shop-assistant shall be liable to a penalty not exceeding fifty dollars.

Saving clause.

10. This Act shall not apply to domestics or farm labourers, nor where all the persons employed as workmen are members of the employer's family.

GOVERNMENT WORKS.

Government works.

11.—(1) Every contract to which the Province of Ontario is a party which may involve the employment of labourers,

workmen or mechanics, shall contain a stipulation that no labourer, workman or mechanic in the employ of the contractor or sub-contractor, or other persons doing or contracting to do the whole or a part of the work contemplated by the contract, shall be permitted or required to work more than eight hours in any one calendar day except in places of extraordinary emergency caused by fire, flood or danger to life or property.

(2) Every such contract hereafter made shall contain a provision that unless the person or corporation making or performing it complies with the provisions of this Act, the contract shall be void and the person or corporation shall not be entitled to receive any sum nor shall any officer, agent or employee of the Province of Ontario pay or authorize payment from the funds under his charge or control to the person or corporation, for work done upon or in connection with the contract which in its form or manner of performance violates the provisions of this Act.

(3) This Act shall apply to work undertaken by the Province of Ontario by day labour.

(4) In all such contracts and sub-contracts relating thereto the wages paid to workmen employed or engaged therein shall be the current wages for competent workmen in the district in which the work is being performed according to the scale of wages paid in each class of trade.

(5) Contractors shall post in a conspicuous place on the works under erection the schedule of wages inserted in their contracts for the protection of workmen.

Commencement of Act.

12. This Act shall commence on the 1st day of July, A.D. 1911.

No. 180.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

The Fair Wages and Hours of Labour Regulation Act, 1911.

1st Reading, 1st March, 1911.

Mr. STUDHOLME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 181. 1911.

BILL

An Act respecting Opticians.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Short title.

1. This Act may be cited as *"The Opticians Act."*

Interpretation. "Board."

2. In this Act

(*a*) "Board" shall mean the Board of Examiners appointed as hereinafter provided.

"Minister."

(*b*) "Minister" shall mean the member of the Executive Council for the time being charged by the Lieutenant-Governor in Council with the administration of this Act.

"Optician."

(*c*) "Optician" shall mean a person who for gain employs any means other than drugs, medicine or surgery for the measurement of the power of vision and the adaptation of lenses and prisms for the aid and correction thereof.

"Regulations."

(*d*) "Regulations" shall mean regulations made under the authority of this Act.

Act not to apply to medical practitioners.

3. Nothing in this Act shall apply to or affect any legally qualified medical practitioner.

Selling optical goods without advice.

4. Nothing in this Act shall prevent any person from having or offering for sale spectacles or eye-glasses which may be selected by the purchaser without the aid, advice or selection of the vendor.

Board of Examiners.

5. The Lieutenant-Governor in Council may appoint a Board of Examiners consisting of five persons practically conversant with the practice of opticians, who shall, subject to the regulations,—

Duties.

(*a*) Prescribe the subjects in which candidates for certificates of qualification as opticians shall be granted.

(*b*) Conduct examinations of candidates or provide for and supervise the examinations of candidates for such certificates, and report thereon to the Minister.

(*c*) Issue licenses and certificates of qualification to applicants therefor who have passed such examinations or are otherwise entitled thereto.

Quorum.

6. Any three members of the Board shall form a quorum.

Secretary.

7. The Lieutenant-Governor in Council may appoint one of the members of the Board or some other person to be the Secretary of the Board.

Register.

8. The Secretary of the Board shall keep a register in which shall be entered the name of every person to whom a certificate of qualification is granted under this Act and the date at which the same is granted.

Regulations.

9. The Lieutenant-Governor in Council may from time to time make regulations,—

(*a*) For the examination of candidates for licenses and certificates of qualification and permits, the granting of such licenses, certificates and permits, and the evidence to be furnished by candidates as to sobriety and good character and as to previous training and experience.

(*b*) For determining the time of continuance of such licenses and certificates and permits and renewal of same.

(*c*) For fixing the fees to be paid by such candidates upon any such examination, or for any license or certificate of qualification or permit or renewal thereof.

(*d*) For prescribing the causes for which any license or certificates or permits may be revoked, cancelled or suspended.

(*e*) For fixing the fees or other remuneration to be paid to the members and staff of the Board.

10. Every person practising as an optician in Ontario at the time of the passing of this Act and who applies to the Board for a certificate of qualification before the 1st day of July, 1911, upon furnishing such evidence of sobriety, good character and experience as the Board may require and upon payment of the prescribed fee, shall be entitled to receive a certificate of qualification from the Board. Persons practising before 1st July, 1911.

11. Any person who feels himself aggrieved by the decisions of the Board may appeal therefrom to the Minister upon giving such notice as the Minister may prescribe and the decision of the Minister shall be final. Appeal from Board to Minister.

12. The Board shall make a report to the Minister on or before the 31st day of December in every year, shewing Annual report of Board.

(*a*) The number of certificates granted by them during the preceding year and the persons to whom granted.

(*b*) The number of applications for certificates refused during the preceding year and the causes for refusing the same.

(*c*) The number of certificates revoked, cancelled or suspended during the preceding year.

(*d*) The amount of fees received by them from candidates or owners of certificates during the preceding year.

(*e*) The travelling and other expenses of the Board and the Secretary, and the fees, salary or other remuneration received by the Board and the Secretary, and

(*f*) Such other matters as may be directed by the Minister or the Lieutenant-Governor in Council.

13. The receipts and expenditure of the Board shall be audited by a Chartered Accountant not a member of the Board and the fees, salary or other remuneration paid to the Board shall be paid out of the fees received from candidates or others and shall in all cases be subject to the approval of the Minister. Audit of receipts and expenditure.

Certificate to be exposed to view.

14. A certificate held by any person under this Act shall at all times be exposed to view in the place of business carried on by such person or in which he is employed, and failure to keep such certificate so exposed shall be *prima facie* evidence of the lack of qualification under this Act.

Penalty for professing to be licensed.

15. After the 1st day of July, 1911, every person who, not being the holder of a certificate of qualification issued by the Board or of a renewal thereof, holds himself out as an optician, or uses any sign or letters or words or abbreviations importing that he is an optician shall incur a penalty not exceeding $25, to be recoverable under *The Ontario Summary Convictions Act.*

10 Edw. VII., c. 37.

No. 181.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Opticians.

1st Reading, 1st March, 1911.

Mr. JOHNSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 182. 1911.

BILL

An Act to amend The Ontario Game and Fisheries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Ontario Game and Fisheries Act* is amended by adding thereto the following section: 7 Edw. VII., c. 49, amended.

15*a*.—(1) No person shall hunt, take or kill more than 25 wild duck of any kind, nor more than 10 partridge in any one day, nor more than 150 duck or more than 50 partridge in all in any one year during the period in which wild duck or partridge as the case may be may be killed; Number of duck and partridge which may be taken.

(2) No person shall have in his possession more than 100 wild duck of any kind nor more than 50 partridge, at any one time but this shall not prevent a wholesale or retail merchant having wild duck for sale at his ordinary place of business.

2. Section 21 of *The Ontario Game and Fisheries Act*, prohibiting the use of guns of the description known as automatic in the killing of game, is repealed. 7 Edw. VII., c. 49, s. 21, repealed.

No. 182.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Game and Fisheries Act.

1st Reading, 1st March, 1911.

Mr. GAMEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 183. 1911.

BILL

An Act to amend The Beach, Shore and River Bed Protection Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Beaches and Shores Act, 1911."* Short title.

2. Notwithstanding anything contained in *The Beach Shore and River Bed Protection Act,* the council of any municipality may pass By-laws, By-law for granting right to take sand or gravel in certain places.

(*a*) For granting to any owner or occupant of land in the municipality the right to take sand or gravel from the beach or shore of any lake or other body of water or from the bank of any river, stream or creek at any point on a highway maintained by the corporation of the municipality; Rev. Stat., c. 270.

(*b*) For charging such tolls for the right to take such sand or gravel as the council of the municipality may think proper;

(*c*) For acquiring by purchase or otherwise or for entering upon, taking and using without the consent of the owner thereof, any part of the beach or shore of any such lake or other body of water or the bank of any such river, stream or creek, making compensation therefor as provided by *The Consolidated Municipal Act, 1903;* For acquiring by purchase or expropriation sand or gravel. 3 Edw. VII., c. 19.

(*d*) For granting to any owner or occupant of land in the municipality the right to take sand or gravel from any such beach, shore or bank;

(*e*) For charging such tolls for the right to take such sand or gravel as the council may think proper.

Approval of Railway and Municipal Board required.

3.—(1) No By-law shall be finally passed under section 2 until the same has been submitted to and received the approval of The Ontario Railway and Municipal Board.

Report of engineer or surveyor, and plan of.

(2) The application for such removal shall be accompanied by the report of an engineer or Ontario Land Surveyor containing a plan of the lands from which the sand or gravel is to be taken, and the names of the owners of any lands from or in front of which such sand or gravel may be removed.

Notice of application.

(3) Notice of the date, hour and place of the application accompanied by a copy of the By-law shall be given to every owner and occupant of such lands by registered letter, mailed to his last known post office address at least 30 days before the application.

Right of owner to be heard.

(4) Every such owner and occupant shall have the right to be heard in person or by counsel upon the application.

When Board not to approve by-law.

4. The Board shall not approve of any such By-law if upon such application it appears that the removal of such sand or gravel,

(*a*) May cause the subsidence of or injury to or in any way interfere with any artificial work or structure, having for its object the protection or formation of such beach, or the beautifying or protection of any adjoining land; or

(*b*) Endanger in any manner the safety of the public or of any person using or passing over adjoining lands; or

(*c*) Injure, impair the beauty of or purpose of, or in any manner affect lands used as an orchard, garden or pleasure ground, or as a summer residence or health resort; or

(*d*) Injure or affect the safety of any highway or bridge; or

(*e*) Injure or interfere in any manner with, or with the right of access to, any wharf, dock, landing stage, boat-house, bathing-house or any other structure erected for the convenience or pleasure of the public, or of the owners of adjoining lands.

5. The Board shall not approve of the By-law if upon the application it appears that the beach, shore or bank from which the sand or gravel is to be taken is used generally by the public or by the owners or occupants of adjoining lands as a promenade, pleasure ground or play ground, or is resorted to largely for bathing and boating purposes. When land used as pleasure ground, etc.

6. The Board may amend the By-law if it considers that such amendment will remove any cause of objection which might otherwise be taken to it, and the council may adopt the By-law as so amended and finally pass the same. Board may amend by-law.

7. Every decision of the Board under this Act shall be final and shall not be subject to appeal. Decision of Board to be final.

No. 183.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Beach Shore and River Bed Protection Act.

1st Reading, 1st March, 1911.

Mr. SULMAN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 184. 1911.

BILL

An Act respecting Embalmers.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Embalmers' Act."* Short title.

2. In this Act

(*a*) "The Board" shall mean the Board of Examiners appointed under this Act. Interpretation. "Board,"

(*b*) "Embalming" shall mean the disinfection or preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for such purpose, either by outward application of such chemical substances, fluids or gases on the body, or by the introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities. "Embalming."

(*c*) "Minister" shall mean the member of the Executive Council for the time being charged by the Lieutenant-Governor in Council with the administration of this Act. "Minister,"

(*d*) "Regulations" shall mean regulations made under the authority of this Act. "Regulations."

3. The Lieutenant-Governor-in-Council may appoint a Board of Examiners consisting of five persons practically conversant with the business of embalming who shall, subject to the regulations, Board of Examiners. Duties.

(*a*) Prescribe the subjects in which candidates for certificates of qualification as embalmers shall be granted.

(*b*) Conduct examinations of candidates or provide for and supervise the examinations of candidates for such certificates and report thereon to the Minister.

(*c*) Issue licenses and certificates of qualification to applicants therefor, who have passed such examinations or are otherwise entitled thereto.

Quorum.

4. Any three members of the Board shall form a quorum.

Secretary.

5. The Lieutenant-Governor-in-Council may appoint one of the members of the Board or some other person to be the Secretary of the Board.

Register.

6. The Secretary of the Board shall keep a register in which shall be entered the name of every person to whom a certificate of qualification is granted under this Act, and the date at which the same is granted.

Regulations by Lieutenant-Governor-in-Council.

7. The Lieutenant-Governor in Council may from time to time make regulations,

(*a*) For the examination of candidates for licenses and certificates of qualification and permits, the granting of such licenses, certificates and permits, and the evidence to be furnished by candidates as to sobriety and good character and as to previous training and experience.

(*b*) For determining the time of continuance of such licenses and certificates and permits and renewal of same.

(*c*) For fixing the fees to be paid by such candidates upon any such examination, or for any license or certificate of qualification or permit or renewal thereof.

(*d*) For prescribing the causes for which any license or certificates or permits may be revoked, cancelled or suspended.

(*e*) For fixing the fees or other remuneration to be paid to the members and staff of the Board.

Persons carrying on business before 1st July, 1911.

8. Every person engaged in or carrying on the business of embalming in Ontario at the time of the passing of this Act and who applies to the Board for a certificate of qualification before the first day of July, 1911, shall, upon furnishing such

evidence of sobriety, good character and experience as the Board may require, and upon payment of the prescribed fee, be entitled to receive a certificate of qualification from the Board.

Appeal from Board to Minister.

9. Any person who feels himself aggrieved by the decisions of the Board may appeal therefrom to the Minister upon giving such notice as the Minister may prescribe, and the decision of the Minister shall be final.

Annual report of Board.

10. The Board shall make a report to the Minister on or before the 31st day of December in every year, shewing

(*a*) The number of certificates granted by them during the preceding year, and the persons to whom granted;

(*b*) The number of applications for certificates refused during the preceding year and the causes for refusing the same;

(*c*) The number of certificates revoked, cancelled or suspended during the preceding year;

(*d*) The amount of fees received by them from candidates or owners of certificates during the preceding year;

(*e*) The travelling and other expenses of the Board and the Secretary, and the fees, salary or other remuneration received by the Board and the Secretary; and

(*f*) Such other matters as may be directed by the Minister or the Lieutenant-Governor-in-Council.

Audit of receipts and expenditure.

11. The receipts and expenditure of the Board shall be audited by a Chartered Accountant, not a member of the Board, and the fees, salary or other remuneration paid to the Board shall be paid out of the fees received from candidates or others and shall in all cases be subject to the approval of the Minister.

Certificate to be kept exposed to view.

12. A certificate held by any person under this Act shall at all times be exposed to view in the place of business carried on by such person or in the place in which he is employed, and failure to keep such certificate so exposed shall be *prima facie* evidence of the lack of qualification under this Act.

Penalty for professing to be licensed.

13. After the 1st day of July, 1911, every person who, not being the holder of a certificate of qualification issued by the Board or of a renewal thereof, holds himself out as an embalmer, or uses any sign or letters, or words or abbreviations, importing that he is an embalmer, shall incur a penalty not exceeding $25.

Notice to be given Secretary of Provincial Board of Health.

14.—(1) No person shall after the 1st day of July, 1911, carry on business as an undertaker in Ontario without a license from the Provincial Board of Health which shall be issued upon such terms and subject to such conditions and regulations and upon payment of such fee and subject to cancellation or suspension for such cause as the Provincial Board of Health with the approval of the Lieutenant-Governor in Council may prescribe.

(2) Every person carrying on business as an undertaker after the 1st day of July, 1911, without such notice, shall incur a penalty of $25.

Returns of burials.

15. Every person who as an undertaker conducts or directs the burial of any human body shall forthwith notify the Secretary of the Provincial Board of Health of such burial upon the form prescribed by the regulations of the Provincial Board of Health, and any person neglecting or refusing to carry out the provisions of this section shall incur a penalty of $25, and upon conviction his license may be suspended or cancelled by the Board.

Penalty.

Application of 10 Edw. VII., c. 37.

16. *The Ontario Summary Convictions Act* shall apply to every prosecution under this Act.

No. 184.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Embalmers.

1st Reading, 1st March, 1911.

Mr. Hearst.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 185. 1911.

BILL

An Act to encourage the Destroying of Wolves.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Wolf Bounty Act.* Short title.

2. In this Act Interpretation.

"County" shall not include the Provisional County of Haliburton. "County."

"Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Act. "Regulations."

"Wolf" shall mean a grey timber wolf. "Wolf."

3. Where a person who has killed a wolf in any County or within one mile of any actual settlement in a County produces the skin of the wolf with the ears on before the Sheriff or Treasurer of such County, or before a Police Magistrate having jurisdiction therein, or before such officer as the Provincial Treasurer may approve of, together with an affidavit in the form prescribed by the regulations, stating the place where and the date when the wolf was killed, with such other particulars as may be prescribed, the Sheriff, Treasurer, Police Magistrate or other Officer so approved shall cut off the ears of the wolf and shall give to the person producing the skin a certificate in the form prescribed in the regulations. Oath and certificate of killing of wolf in county.

4. Upon the delivery of such certificate to the Treasurer of the County, together with the skin of the wolf, by the person named therein, the Treasurer shall pay to such person the sum of $15 as a bounty upon the killing of the wolf. Bounty payable by county.

Part of bounty to be recouped county by Province.

5. Upon the production of the said certificate and the skin of the wolf the Corporation of the County shall be entitled to receive from the Treasurer of Ontario the sum of $6 upon every bounty of $15 so paid, and the same shall be payable out of such money as may from time to time be appropriated by the Legislature for that purpose.

Oath and certificate of killing of wolf in district.

6. Where a wolf has been killed in a Provisional Judicial District or in the Provisional County of Haliburton, the skin with the ears on may be produced before a Judge of the District Court, a Police Magistrate, the Sheriff of the District, an agent of the Department of Lands, Forests and Mines, or before a Clerk of a District Court in the District or Provisional County, and upon the like proof as set forth in section 3, the Judge or Officer before whom the skin is produced may give the certificate mentioned in section 3, and upon the production of such certificate and the skin of the wolf the person named in the certificate shall be entitled to receive from the Treasurer of Ontario the sum of $15.

When wolf killed in Algonquin Park.

7. Where a claim is made for the payment of bounty for a wolf killed in Algonquin Park, the affidavit may be taken and the certificate may be given by the Superintendent of the Park, and it shall not be necessary to show that the person killing the wolf had the special license provided for by section 9 of *The Algonquin National Park Act.*

10 Edw. VII., c. 22.

Skin to be delivered to Treasurer of Ontario.

8. Before payment of the bounty to the Corporation of the County or directly to the person killing the wolf, the skin shall be delivered to the Treasurer of Ontario, or to such person as he may designate for that purpose, and shall become the property of the Crown and may be disposed of in such manner as the Lieutenant-Governor in Council may prescribe.

Regulations.

9. The Lieutenant-Governor in Council may make regulations for the better carrying out of the provisions of this Act, and a copy of such regulations together with the forms therein prescribed shall be transmitted by the Provincial Treasurer to the officers mentioned in sections 3 and 6 of this Act.

Rev. Stat., c. 290, repealed.

10. Chapter 290 of The Revised Statutes of Ontario 1897, and all amendments thereto, are hereby repealed.

Commencement of Act.

11. This Act shall come into force on the 1st day of July, 1911.

No. 185.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Encourage the Destroying of Wolves.

1st Reading, 1st March, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 185. 1911.

BILL

An Act to encourage the Destroying of Wolves.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Wolf Bounty Act.* Short title.

2. In this Act Interpretation.

"County" shall not include the Provisional County of Haliburton. "County."

"Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Act. "Regulations."

"Wolf" shall mean a grey timber wolf. "Wolf."

3. Where a person who has killed a wolf in any County or within one mile of any actual settlement in a County produces the skin of the wolf before the Sheriff or Treasurer of such County, or before a Police Magistrate, or before such officer as the Provincial Treasurer may approve of, together with an affidavit in the form prescribed by the regulations, stating the place where and the date when the wolf was killed, with such other particulars as may be prescribed *by the regulations,* the Sheriff, Treasurer, Police Magistrate or other Officer shall give to the person producing the skin a certificate in the form prescribed *by* the regulations. Oath and certificate of killing of wolf in county.

4. Upon the delivery of such certificate by the person named therein to the Treasurer of the County, together with the skin of the wolf, the Treasurer shall pay to such person the sum of $15 as a bounty upon the killing of the wolf. Bounty payable by county.

Part of bounty to be recouped county by Province.

5. Upon the *delivery* of the said certificate and the skin of the wolf to the Treasurer of Ontario the Corporation of the County shall be entitled to receive the sum of $6 upon every bounty of $15 so paid, out of such money as may from time to time be appropriated by the Legislature for the payment of wolf bounty.

Oath and certificate of killing of wolf in district.

6.—(1) Where a wolf has been killed in a Provisional Judicial District, the skin may be produced before a Judge of the District Court, a Police Magistrate, the Sheriff of the District, an agent of the Department of Lands, Forests and Mines, or before *the* Clerk of *the* District Court.

(2) Where a wolf has been killed in the Provisional County of Haliburton, the skin may be produced before a Police Magistrate, an agent of the Department of Lands, Forests and Mines, or a clerk of a Division Court in the Provisional County, a Judge of the County Court of the County of Victoria, the Clerk of the said Court, or the Sheriff of the said County.

(3) Upon the like proof as set forth in section 3, the Judge or Officer before whom the skin is produced may give the certificate mentioned in section 3, and upon the *delivery* of such certificate and the skin of the wolf the person named in the certificate shall be entitled to receive from the Treasurer of Ontario the sum of $15 out of such money as may be appropriated by the Legislature for the payment of wolf bounty.

When wolf killed in Algonquin Park.

7. Where a claim is made for the payment of bounty for a wolf killed in Algonquin Park, the affidavit may be taken and the certificate may be given by the Superintendent of the Park, and it shall not be necessary to show that the person killing the wolf had the special license provided for by section 9 of *The Algonquin National Park Act.*

10 Edw. VII., c. 22.

Skin to be delivered to Treasurer of Ontario.

8. Before payment of the bounty to the corporation of the County or directly to the person killing the wolf, the skin shall be delivered to the Treasurer of Ontario, or to such person as he may designate for that purpose, and shall become the property of the Crown and may be disposed of in such manner as the Lieutenant-Governor in Council may prescribe.

9. In case of any claim heretofore or hereafter made whenever the Provincial Treasurer is satisfied that the person killing a wolf or the corporation of the County which has paid a wolf bounty is justly entitled to receive the bounty he may direct the issue of a cheque in payment thereof notwithstanding any defect in the affidavit or certificate or

any doubt as to the authority of the officer taking such affidavit or giving such certificate, and in such case the Provincial Auditor shall forthwith without further audit or examination countersign such cheque.

10. The Lieutenant-Governor in Council may make regulations for the better carrying out of the provisions of this Act, and *copies* of such regulations together with the forms therein prescribed shall be transmitted by the Provincial Treasurer to the officers mentioned in sections 3 and 6 of this Act. Regulations.

11. Chapter 290 of The Revised Statutes of Ontario 1897, the Act passed in the 63rd year of the reign of Her Late Majesty Queen Victoria, chaptered 51; section 23 of the Act passed in the 1st year of the reign of His Late Majesty King Edward VII., chaptered 12; section 33 of *The Statute Law Amendment Act, 1906;* section 35 of *The Statute Law Amendment Act, 1907;* and section 41 of *The Statute Law Amendment Act, 1910,* are hereby repealed. Rev. Stat., c. 290; 63 V., c. 51; 1 Edw. VII., c. 12, s. 23; 6 Edw. VII., c. 19, s. 33; 7 Edw. VII., c. 23, s. 35; 10 Edw. VII., c. 26, s. 41. repealed.

12. This Act shall come into force on the 1st day of July, 1911. Commencement of Act.

No. 185.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Encourage the Destroying of Wolves.

1st Reading, 1st day of March, 1911.
2nd Reading, 2nd day of March, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 186. 1911.

BILL

An Act to amend the Ontario Game and Fisheries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 12 of *The Ontario Game and Fisheries Act* is amended by adding thereto the following subsection:— 7 Edw. VII., c. 49, s. 12, amended.

(5) The Superintendent may at any time make an order in writing directing the taking or killing of beaver by an overseer or other officer named in the order in any designated locality in the Province in which in the opinion of the Superintendent beaver are causing damage to highways or to private property, but all beaver so taken or killed shall be duly accounted for to the Superintendent. Superintendent may order the taking or killing of beaver in certain cases.

2. Section 56 of the said Act is amended by striking out all the words therein down to and including the word "number" in the second line and inserting in lieu thereof the words "There shall also be appointed Wardens of Game and Fisheries, not exceeding ten in number." 7 Edw. VII., c. 49, s. 56, amended. Appointment of wardens of game and fisheries.

3.—(1) The open season for snipe, rail, plover, and other birds known as shore birds or waders, shall hereafter commence on the 15th day of September instead of the 1st day of September. Open season for shore birds.

(2) The clause lettered (*h*) in subsection 1 of section 11 of the said Act is amended by striking out the words "1st day of September" in the 2nd and 3rd lines and inserting the words "15th day of September" in lieu thereof. 7 Edw. VII., c. 49, s. 11, subs. 1, cl. (h), amended.

4. Subsection 1 of said section 11 is amended by striking out the word "woodcock" in the clause letered (*d*) in the said subsection and by inserting after the said clause the following:— 7 Edw. VII., c. 49, s. 11, subs. 1, amended.

Woodcock.

(*dd*) Any woodcock, except from the 1st day of October to the 15th day of November, both days inclusive.

7 Edw. VII., c. 49, s. 12, subs. 2, amended.

Mink.

5.—(1) Subsection 2 of section 12 of the said Act is amended by striking out the words "mink or" added by subsection 2 of the Act passed in the 10th year of the reign of His late Majesty King Edward VII., chaptered 101.

7 Edw. VII., c. 49, s. 12, amended.

(2) The said section 12 is amended by adding thereto the following subsection:—

Mink, close season for.

(4*a*) No mink shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the first day of November following.

No. 186.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Ontario Game and Fisheries Act.

First Reading, 2nd day of March, 1911.

Mr. Reaume.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 186. 1911.

BILL

An Act to amend The Ontario Game and Fisheries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 12 of *The Ontario Game and Fisheries Act* is amended by adding thereto the following subsection:— 7 Edw. VII, c. 49, s. 12, amended.

(5) The Superintendent may at any time make an order in writing directing the taking or killing of beaver by an overseer or other officer named in the order in any designated locality in the Province in which in the opinion of the Superintendent beaver are causing damage to highways or to private property, but all beaver so taken or killed shall be duly accounted for to the Superintendent. Superintendent may order the taking or killing of beaver in certain cases.

2. Section 56 of the said Act is amended by striking out all the words therein down to and including the word "number" in the second line and inserting in lieu thereof the words "There shall also be appointed Wardens of Game and Fisheries, not exceeding ten in number." 7 Edw. VII, c. 49, s. 56, amended. Appointment of wardens of game and fisheries

3.—(1) The open season for snipe, rail, plover, and other birds known as shore birds or waders, shall hereafter commence on the 15th day of September instead of the 1st day of September. Open season for shore birds.

(2) The clause lettered (*h*) in subsection 1 of section 11 of the said Act is amended by striking out the words "1st day of September" in the 2nd and 3rd lines and inserting the words "15th day of September" in lieu thereof. 7 Edw. VII, c. 49, s. 11, subs. 1, cl. (h), amended.

4. Subsection 1 of said section 11 is amended by striking out the word "woodcock" in the clause letered (*d*) in the said subsection and by inserting after the said clause the following:— 7 Edw. VII, c. 49, s. 11, subs. 1, amended.

Woodcock.

(*dd*) Any woodcock, except from the 1st day of October to the 15th day of November, both days inclusive.

7 Edw. VII., c. 49, s. 12, subs. 2, amended.

Mink.

5.—(1) Subsection 2 of section 12 of the said Act is amended by striking out the words "mink or" added by subsection 2 of the Act passed in the 10th year of the reign of His late Majesty King Edward VII., chaptered 101.

7 Edw. VII., c. 49, s. 12, amended.

(2) The said section 12 is amended by adding thereto the following subsection:—

Mink, close season for.

(4*a*) No mink shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the first day of November following.

7 Edw. VII., c. 49, s. 48, subs. 1, clause d, amended.

Fee for non-resident licenses

6. ☞Clause (*d*) added to subsection 1 of section 48 of *The Ontario Game and Fisheries Act,* by section 6 of the Act passed in the 10th year of the reign of His late Majesty King Edward VII., and chaptered 101, is amended by striking out the figures "$10" in the last line and inserting the figures "$20" in lieu thereof.☜

7 Edw. VII., c. 49, s. 60, amended.

7. ☞Section 60 is amended by adding the following as subsection 3*a*:—☜

Information may include two or more offences.

☞A complaint or information may be for two or more offences.☜

No. 186.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario Game and Fisheries Act.

1st Reading 2nd day of March, 1911
2nd Reading 7th day of March, 1911

(*Reprinted as amended in Committee of the Whole House.*)

Mr. Reaume.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 187. 1911.

BILL

An Act for Raising Money on the Credit of the Consolidated Revenue Fund of Ontario.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Loan of $5,500,000 authorized.

1. The Lieutenant-Governor in Council is hereby authorized to raise by way of loan a sum of money not exceeding five million five hundred thousand dollars ($5,500,000) for any or all of the purposes following, that is to say: For the public service; for works carried on by Commissioners on behalf of the Province; for the covering of any debt of the Province on open account; for paying any floating indebtedness of the Province, and for the carrying on of the public works authorized by the Legislature.

Terms of loan.

2. The aforesaid sum of money may be borrowed for any term or terms not exceeding forty years at a rate not exceeding four per centum per annum, and shall be raised upon the credit of the Consolidated Revenue Fund of Ontario and shall be chargeable thereupon.

Securities to be free from Provincial taxes.

3. All bonds and inscribed stock issued under the authority of this Act shall be free from all Provincial taxes, succession duty, charges and impositions whatsoever.

Sinking fund.

4. The Lieutenant-Governor in Council may provide for a special sinking fund with respect to the issue herein authorized, and such sinking fund may be at a greater rate than the one-half of one per centum per annum on the amount of such debentures or stock, as specified in subsection 2 of section 4 of *The Provincial Loans Act.*

No. 187.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act for raising money on the credit of the Consolidated Revenue Fund of Ontario.

1st Reading, 2nd day of March, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 188. 1911.

BILL

An Act to amend The Voters' Lists Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Sections 21 and 22 of *The Ontario Voters' Lists Act* are repealed and the following substituted therefor: 7 Edw. VII., c. 4, ss. 21, 22, repealed.

Certifying list by County Judge when no complaint made.

21.—(1) If no complaint is made within thirty days after the Clerk has posted up the list in his office, he shall forthwith apply either in person or by letter to the Judge to certify (Form 14) a sufficient number of copies of the list as being the last revised list of voters for the municipality to furnish one copy of such list to each of the following persons, namely:

Who to receive copies.

(*a*) The Judge;

(*b*) The Clerk of the Peace;

(*c*) The Clerk of the Municipality;

(*d*) The Member of the House of Commons for the electoral district in which the municipality or any part thereof lies;

(*e*) The Member of the Assembly for the electoral district in which the municipality or any part thereof lies; and

(*f*) Every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly respectively for the electoral district in which the municipality or any part thereof lies.

Certificate of Judge.

(2) The judge shall certify each of such copies and shall retain one and shall deliver or transmit by registered post, one copy to each of the persons mentioned in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of subsection 1.

When changes made by Judge.

22.—(1) If any complaint is made and allowed by the Judge, he shall immediately after the list has been finally revised, furnish to the Clerk a statement of the changes made by him in the list.

Copies of revised list to be delivered to certain persons.

(2) The Clerk shall thereupon prepare a sufficient number of copies of the list as revised by the Judge to furnish one copy for each of the persons mentioned in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of subsection 1 of section 21, and shall within one week after the revision has been made transmit or deliver such copies to the Judge.

Certificate of Judge on copies.

(3) The Judge shall thereupon sign and certify (Form 15) such copies and deal therewith in the manner provided by subsection 2 of section 21.

No. 188.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Voters' Lists Act.

1st Reading, 3rd day of March, 1911.

Mr. NORMAN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 189. 1911.

BILL

An Act to amend the Surrogate Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 8 of *The Surrogate Courts Act* is amended by adding after subsection (1) thereof the following words: "or one of His Majesty's Counsel learned in the law upon the request in writing of the Judge." 10 Edw. VII., c. 31, s. 8, ss. (1), amended.

No. 189.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Surrogate Courts Act.

1st Reading, 3rd day of March, 1911.

Mr. BREWSTER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 189. 1911.

BILL

An Act to amend The Surrogate Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 8 of *The Surrogate Courts Act*, is repealed and the following substituted therefor:— 10 Edw. VII., c. 31, s. 8, ss. (1), repealed.

Provision for illness or absence of judge.

(1) In case of the illness or absence of the Judge of the Surrogate Court of any county or district, in which there is only one Judge, any Judge who has authority to preside over the county or district court of the county or district, or any barrister of 10 years' standing, on the request in writing of the Judge of the Surrogate Court or of the Attorney-General of Ontario, may act as Judge of the Surrogate Court.

2. Section 34 of *The Surrogate Courts Act* is amended by adding the following subsections: 10 Edw. VII., c. 31, s. 34 amended.

Appeal from audit of accounts.

(5) An appeal shall also lie from any order, decision or determination of the Judge of a Surrogate Court on the taking of accounts in like manner as from the report of a Master under a reference directed by the High Court, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from such a report.

(6) Subsections 2 and 3 shall not apply to the appeal provided for by subsection 5.

3. Section 69 of the said Act is hereby repealed and the following substituted therefor: s. 69 amended.

Notice contesting claims made.

"69.—(1) Where a claim or demand is made against the estate of a deceased person which, in the opin-

ion of his personal representative, is unjust, in whole or in part, or where such personal representative has notice of such a claim or demand, he may, at any time before payment serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section.

Application for order allowing claim.

"(2) Subject to the provisions of subsection 3, the claimant may thereupon apply to the Judge of the Surrogate Court out of which the probate or letters of administration of the estate issued for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he may deem just, and if he does not make such application within thirty days after receiving the notice or within such further time as the Judge either before or after the expiration of the thirty days may allow, he shall be deemed to have abandoned his claim and the same shall be forever barred.

Claim within jurisdiction of Division Court.

"(3) Where the claim amounts to not more than $100 and is otherwise within the jurisdiction of the Division Court the application shall be made to a Judge of a Division Court in which an action for the recovery of the claim might be brought, and shall be heard by the Judge at the sittings of such Court unless the claimant and the personal representative consent to the application being made to the Judge of the Surrogate Court and in that case the application may be made to him.

Notice in such case.

"(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the Surrogate Court Judge, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the Judge may direct.

Right of persons interested to be heard.

"(5) Where the application is made to the Judge of the Surrogate Court, in addition to the persons to whom notice given any other person who is interested in the estate shall have the right to be heard and to take part in the proceedings.

Appeal from surrogate judge.

"(6) If the amount of the claim or the part of it which is contested exceeds $200, an order of the Judge

shall be subject to appeal as provided by subsection 5 of section 34, and the order, unless reversed on appeal and as varied if varied on appeal, when filed in the County Court of the county shall, irrespective of the amount of the claim, become and may be enforced in like manner as a judgment of that Court.

Action may be decided to be brought if claim is $800 or more.

"(7) Where the claim or the part of it which is contested amounts to $800 or more, instead of proceeding as provided by this section, the Judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor to bring an action in the High Court for the recovery or the establishment of his claim on such terms and conditions as the Judge may deem just.

Effect of order of division court judge.

"(8) The order of the Judge of a Division Court shall have the effect of, and may be enforced in like manner as a judgment of that Court.

Costs when claims within division court jurisdiction.

"(9) Where the claim amounts to not more than $100 and is otherwise within the jurisdiction of the Division Court, the fees and costs shall be according to the tariff of that Court, and in other cases the fees payable to the Judge of the Surrogate Court and to the Registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested.

Right of persons interested in appeal.

"(10) Where an appeal lies as provided by subsection 6, if the personal representative does not appeal from the order, the Official Guardian or any person beneficially interested in the estate may by leave of a Judge of the High Court appeal therefrom.

Right of person interested to be heard on appeal.

"(11) Where the personal representative appeals, the Official Guardian and any person beneficially interested in the estate may by leave of the Court which hears the appeal appear and be heard in support thereof.

Claims not payable.

"(12) The provisions of this section shall apply notwithstanding that the claim or demand is not presently payable and that for that reason an action for the recovery of it could not be brought and in such a case the order of the Judge shall not be enforceable by execution until the claim or demand becomes payable."

No. 189.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Surrogate Courts Act.

1st Reading, 3rd day of March, 1911.
2nd Reading, 8th day of March, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. BREWSTER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 189. 1911.

BILL

An Act to amend The Surrogate Courts Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 8 of *The Surrogate Courts Act*, is repealed and the following substituted therefor:— 10 Edw. VII., c. 31, s. 8 ss. (1), repealed.

(1) In case of the illness or absence of the Judge of the Surrogate Court of any county or district, any Judge who has authority to preside over the county or district court of the county or district, or any one of His Majesty's Counsel Learned in the Law, upon the request in writing of the Judge of the Surrogate Court or of the Attorney-General of Ontario, may act as Judge of the Surrogate Court. Provision for illness or absence of judge.

No. 189.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Surrogate Courts Act.

1st Reading, 3rd day of March, 1911.
2nd Reading, 8th day of March, 1911.

(*Reprinted as amended by The Legal Committee.*)

Mr. BREWSTER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 190. 1911.

BILL

An Act to amend the Power Commission Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 22 of *The Power Commission Act* is amended by inserting after subsection 4 thereof the following subsections: 7 Edw. VII., c. 19, s. 22, amended.

(4*a*) The location of all poles, conduits and wires of any municipal corporation or company receiving power from the Commission on streets and highways, shall be subject to the approval of the Commission, and such municipal corporations or companies, whether such poles, conduits or wires have or have not been heretofore placed in position, may locate and maintain the same as and where the said Commission may order. Location of poles, conduits, etc., to be approved by Commission.

(4*b*) In all cases, where in the opinion of the Commission, it is desirable in the public interest that conduits should be laid or maintained, or lines of poles erected or maintained upon any street or highway on which any other conduits or poles for any electrical purpose have been heretofore placed or erected, the Commission may order and direct that, notwithstanding any law or statute to the contrary, the poles, conduits and wires of any municipal corporation or company receiving power from the Commission, may be placed or maintained at such positions along such highways as the Commission may order, notwithstanding the proximity of existing conduits, poles or wires. Where there are other wires and conduits.

(4*c*) The Commission may, in their discretion, order that the wires of any such municipal corporation or company may be attached to any existing poles, where such poles are capable of carrying such new wires in addition to the wires already carried, without injury, in the opinion of the said Commis- Using existing poles and conduits to carry wires.

sion, to the property of such existing companies; and the municipal corporation or company receiving power as aforesaid from the said Commission shall, in such cases, pay to the existing company whose poles are so used, such fair and adequate remuneration as the said Commission may order. The said Commission may, if the Commission decide that such existing poles are unable to carry further wires, and it is in the public interest that two lines of poles should not be erected upon the same highway, order that the existing poles shall be replaced with stronger poles, capable of carrying both services; and in such case the municipal corporation or company receiving power from the Commission shall, at its own cost and expense, erect such new poles, remove the old ones, and make all proper and necessary connections of the existing wires to such new poles in such manner as the Commission shall direct, and shall indemnify and save harmless the existing company, from any costs or expenses in connection with the making of such change. The poles so substituted shall become the property of the existing company, subject to the right of the municipal corporation or company empowered to do the work under this section, to string and maintain wires thereon by means of cross arms or otherwise as the Commission may direct.

Orders for maintenance or renewal of poles.

(4*d*) The Commission shall on the application of any company or municipal corporation interested or may of their own motion make orders and directions for the maintenance or renewal of all poles and therein provide that it shall be the duty of any company or municipal corporation interested and designated therein to maintain such poles in the manner directed and to renew the same as and when the said Commission may from time to time order and all other companies or the municipal corporations interested in such poles shall pay such sums to the company or municipal corporation charged with such maintenance or renewal as the Commission may from time to time order and direct.

Location of poles or conduits.

(4*e*) The Commission may direct the location and maintenance of poles and conduits at any point or points in public highways that the Commission may order, notwithstanding the existence of other poles and conduits, and notwithstanding the relative position of the different plants; but municipal corporations and companies obtaining orders from the Commission shall pay to existing companies any damage the existing companies' plant may receive as a result of construction or maintenance under such order; such damage to be fixed by the Commission on application made to them for such purpose.

(4*f*) The orders and directions of the Commission shall be binding and conclusive upon all municipal corporations and electric companies owning, erecting or maintaining poles, conduits or wires on any street or highway, and shall be so construed in all courts in all actions or proceedings heretofore or hereafter brought, except in cases where the rights of such municipal corporations or electric companies have been finally adjudicated upon. Orders of Commission to be final.

(4*g*) The Commission shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it. Exclusive jurisdiction of Commission.

No. 190.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Power Commission Act.

1st Reading, 3rd day of March, 1911.

Mr. McNaught.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 190. 1911.

BILL

An Act to amend the Power Commission Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Power Commission Amendment Act, 1911.*

2. In this Act

Interpretation "Highway."

(*a*) "Highway" shall include street, lane, road, square or other public passage, and "Highways" shall have a meaning corresponding to that of highway.

"The Commission."

(*b*) "The Commission" shall mean The Hydro-Electric Power Commission of Ontario.

"Works."

(*c*) "Works" shall include wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus.

"Corporation."

(*d*) "Corporation" shall mean and include a municipal corporation or any Board or Commissioners, incorpoated or unincorporated, acting on behalf of a municipal corporation or of the inhabitants of a municipality, and an incorporated company.

Approval of distributing works of the Commission.

3.—(1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of highway, in, under or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first mentioned corporation and after notice to the other and hearing any objections which it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve of the same;

and all works which such first mentioned corporation has constructed or may thereafter construct, the location and mode of construction of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, except that provided for by section 4, any statute or law to the contrary notwithstanding.

Approval upon conditions.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to such other corporation and its servants and workmen, in maintaining, repairing and operating them.

Insulation.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between the wires of two corporations, or from any other cause, that insulators or other appliances should be affixed to the poles of either corporation, or that the wires of either of them should be attached to such insulators or other appliances, the Commission may authorize or direct such insulators or other appliances to be so affixed, and such wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger; and anything done by either corporation pursuant to such authority or direction shall be deemed to be lawfully done.

Work to be done at expense of initiating corporation.

(4) Anything authorized or directed to be done under the provisions of subsection 3 shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation, and under such supervision as the Commission may direct.

Powers exercisable from time to time.

(5) The powers conferred by this section may be exercised from time to time as occasion may require.

Application to works already constructed.

(6) The provisions of this section shall apply to works of a corporation constructed before the passing of this Act.

Claims for damages by one corporation against another.

4.—(1) If any damage or injury is done to the works of a corporation or any of them, or is occasioned in the maintenance or operation of them by reason of the works of another corporation, or any of them, being constructed or operated in closer proximity to the works of such first mentioned corporation than, but for the provisions of section 3, would have been lawful, no action shall lie in respect thereof, but the corporation doing such damage or injury shall make due

compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of the compensation, shall be determined by arbitration, and the provisions of *The Consolidated Municipal Act, 1903,* with respect to arbitration in the case of claims against municipal corporations shall apply *mutatis mutandis* to the procedure upon an arbitration under this section.

Notice of claim.

(2) The corporation claiming damages shall, within one month after the expiration of any calendar year, in which it claims that any such damage or injury has been so done or occasioned, give notice in writing to the other corporation of its claim and of the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that year shall be forever barred.

Approval of Commission may be pleaded.

5. Where the location and mode of construction of any works of a corporation which have been constructed before the passing of this Act are approved by the Commission under the provisions of section 3, the approval of the Commission may be set up in and shall be available as a defence to any action now pending to the same extent and with the same effect as if such action had been commenced after the passing of this Act, and the giving of such approval; and where it is so set up, the plaintiff shall be entitled to discontinue the action, and, if he does so, to be paid his costs of it by the defendant.

Exclusive jurisdiction of Commission.

6. The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is, by this Act, conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any Court.

Jurisdiction of courts ousted.

7. No Court shall have authority to grant, or shall grant an injunction, or other order, restraining, either temporarily or otherwise, the construction, maintenance or operation of any works, the location and mode of construction of which have been approved by The Commission if the same are being, or have been, constructed in the place and according to the mode which have been so approved.

AMENDED.

No. 190.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Power Commission Act.

1st Reading, 3rd day of March, 1911.

(*To be substituted for Bill No.* 190.)

Mr. McNaught.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 191. 1911.

BILL

An Act to amend the Charity Aid Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Charity Aid Act* is amended by adding the following sections: Rev. Stat., c. 320, amended.

18. In this and the following sections of this Act,

(*a*) "Hospital" shall mean and include a public hospital receiving aid under this Act. Interpretation. "Hospital."

(*b*) "Resident" as applied to a municipality shall mean and include any person who has resided in the municipality continuously for three months, or who, though not having resided therein continuously for such three months, was actually employed therein immediately prior to being admitted to a hospital. "Resident."

19.—(1) The Superintendent of a hospital immediately upon the admission of a patient to a public ward in the hospital shall notify by registered post the Clerk of the Municipality from which such patient represents himself as being brought, that such patient has been admitted to the hospital, giving such particulars as may be ascertainable to enable the Clerk of the Municipality to identify the patient. Notice to clerk of municipality from which patient came.

(2) Unless the Clerk, within fourteen days after the mailing of the notice, shall notify the Superintendent in writing that the patient is not a resident of such municipality, he shall be so considered for the purposes of this Act. Residence admitted.

(3) Upon the discharge or death of such patient, the Superintendent shall immediately notify by registered post the Clerk of such municipality of that fact, enclosing a detailed Recovery of charge from municipality.

statement of the claim of the hospital against such patient, and such municipality shall thereupon become liable for and shall pay to the hospital the amount of such claim as and for a debt due to the hospital if at the time of his admission to the said hospital he was a resident of such municipality.

Patients from unorganized townships.

(4) Where a patient is brought from an unorganized township in which he was employed immediately prior to his admission to the hospital, the Superintendent shall notify his employer in the manner and giving the particulars provided by subsection (1.)

Limitation of charge for public ward patient.

20. No hospital shall charge against a municipality for nursing and attendance upon any public ward patient a higher rate than 70 cents per day.

Burial expenses.

21. Upon the death of a public ward patient in a hospital, the municipality of which such person was a resident immediately prior to being admitted to the hospital shall also become liable for and shall pay to the hospital for the burial expenses of such patient, not exceeding $15.00 as and for a debt due to such hospital.

Liability of patient or his estate to municipality.

22. Upon payment by a municipality of an account of a hospital for treatment or burial of a public ward patient such patient or his executors or administrators shall immediately become liable for and shall pay to such municipality the amount so paid, and such amount may be sued for and collected by such municipality as and for a debt due to such municipality and neither the patient nor his estate shall be allowed to claim any exemption under any Act in respect of such debt.

Payment of fixed annual amount by municipality.

23. A municipality and a hospital may agree that the municipality shall pay a fixed annual amount to the hospital in lieu of any liability which may accrue under the provisions of sections 19, 20 and 21.

Regulations under 1 Edw. VII, c. 34.

24. Nothing in this Act shall conflict with the Regulations made in accordance with *The Act Respecting Sanitary Regulations in Unorganized Territories.*

No. 191.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Charity Aid Act.

1st Reading, 3rd day of March, 1911.

Mr. DONOVAN.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 192. 1911.

BILL

An Act for the Protection of the Public Interests in the Bed of Navigable Waters.

HIS MAJESTY, by and with the consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "The Bed of Navigable Waters Act."

Grant to be presumed to be to water's edge.

2. Where land bordering on a navigable body of water or stream has been heretofore, or shall hereafter, be granted by the Crown, it shall be presumed, in the absence of an express grant of it, that the bed of such body of water or stream was not intended to pass to the grantee of the land, and the grant shall be construed accordingly and not in accordance with the rules of the English Common Law.

Saving as to certain cases.

3. Section 2 shall not affect the rights of the grantee, or of any person claiming under him, where such rights have heretofore been determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or any person claiming under him who has previous to the passing of this Act developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant-Governor in Council to develop the said power or powers to the fullest possible extent, and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant-Governor in Council.

Act not to apply to a certain locality.

4. This Act shall not apply to the bed of the river where it runs through Lot 8 in the 6th Concession of the Township of Merritt, in the District of Sudbury.

AMENDED.

No. 192.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act for the Protection of the Public Interests in the Bed of Navigable Waters.

1st Reading, 8th day of March, 1911.

(*To be substituted for present Bill 192.*)

Mr. Cochrane.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 193. 1911.

BILL

An Act to amend the Municipal Drainage Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Municipal Drainage Act* is amended by inserting therein the following as section 80*a*: 10 Edw. VII., c. 90, amended

80*a*. Notwithstanding anything contained in section 80 of this Act, the municipality whose duty it is to maintain and keep in repair a drainage work, shall not become liable in pecuniary damages to any owner of land whose property is injuriously affected by reason of the non-repair of such drainage work, unless and until after the expiration of two months from the date of service by or on behalf of such owner of notice in writing upon the Reeve or Clerk of such municipality, describing with reasonable certainty the alleged lack of repair of such drainage work. Liability of municipality for damages caused by non-repair.

2. Section 98 of the said Act is amended by adding thereto the following as subsection 7: 10 Edw. VII., c. 90, s. 98, amended.

(7) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed to the plaintiff shall be on the Division Court scale, so far as the same is applicable. Costs in award of damages for non-repair.

No. 193.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Municipal Drainage Act.

1st Reading, 8th day of March, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 194. 1911.

BILL

An Act to Provide for the Local Distribution of Electrical Power.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Power Commission Act, 1911."* Short title.

2. In this Act Interpretation,

(*a*) "The Commission" shall mean the Hydro-Electric Power Commission of Ontario; "The Commission."

(*b*) "Corporation" shall mean the Corporation of a city, town, township or village municipality. "Corporation."

3. Any one or more of the ratepayers in a municipality, the corporation of which has not entered into a contract with the Commission under *The Power Commission Act,* may apply to the corporation to obtain from the Commission a supply of electrical power or energy for the use of such ratepayer or ratepayers for lighting, heating and power purposes or for any of such purposes. Application for supply of power to municipality for use of particular ratepayer.

4. The application shall be in writing signed by the applicants and shall state the lots or parts of lots owned or occupied by each of them respectively, and the purposes for which the electrical power or energy is required. Form of application.

5. The Council of the Corporation shall thereupon request The Commission to supply the electrical power or energy for the purposes mentioned in the application. Request for supply.

6. Upon such request The Commission shall furnish to the corporation an estimate of the maximum cost per horse power at which the electrical power or energy will be supplied Estimates, etc., to be furnished by Commission.

at the point of development or of its delivery to The Commission and an estimate of the cost of constructing and providing transmission lines by means of which the amount of electrical power or energy required is to be supplied and of maintaining the same and may furnish to the corporation plans and specifications of the works, plant, machinery and appliances necessary for the distribution of such power or energy by the corporation to the applicants, and an estimate of the cost thereof and such other information as The Commission may think advisable.

By-law authorizing contract with Commission.

7. Within one month after the delivery of the statement and estimates mentioned in the next preceding section, the Council shall, at a special meeting called for that purpose, and of which notice shall have been given to each of the applicants, consider the statement and estimates furnished by The Commission and with the consent of the applicants or such of them as shall signify their desire to proceed to enter into a contract for the supply of electrical power or energy by The Commission, the Corporation without submitting the same to a vote of the electors and without any of the other formalities required in the case of a By-law passed under 7 Edw. VII., c. 19. *The Power Commission Act,* may pass a By-law for entering into a contract with The Commission for the supply of the electrical power or energy required by the applicants, and may enter into a contract with The Commission for that purpose.

Application of 7 Edw. VII., c. 19.

8. All the provisions of *The Power Commission Act* as to the annual payments to be made by corporations which have entered into contracts with The Commission shall apply to a contract entered into under this Act.

Admission of further subscribers.

9. The contract may provide for the admission from time to time of further subscribers, or for the making of a contract between the corporation and The Commission under *The Power Commission Act,* and the readjustment thereupon of the amounts payable annually to The Commission in such manner as may be agreed upon or determined by arbitration or otherwise.

Issue of debentures.

10. The By-law may provide for the issue of debentures of the municipality payable within twenty years from the issue thereof to meet the cost of construction and instalment of the works, plant, machinery and appliances necessary for the distribution of the electrical power or energy, and for the levying of a special rate for payment of principal and interest in the manner provided by *The Consolidated Municipal Act, 1903.*

11. The amount payable by the applicants in each year for the electrical power or energy supplied to them, shall be sufficient to recoup the municipality the amount required to pay the principal and interest of any debentures issued and to meet the annual payments required to be made to the Commission as provided by *The Power Commission Act,* and in default of payment any amount due to the corporation under this section may be entered on the collector's roll and collected in the same manner as other taxes. Amount payable by applicants. 7 Edw. VII., c. 19.

12.—(1) The trustees of a Police Village shall for the purposes of *The Power Commission Act,* be deemed a municipal corporation, and subject to the provisions of this Act, may exercise all the powers conferred upon municipal corporations by *The Power Commission Act,* and may enter into a contract with The Commission for the supply of electrical power or energy as provided by that Act. Contracts with Police Trustees.

(2) The council of the township, or the councils of the townships in which the Police Village is situate, upon the request of the Police Trustees, shall submit the By-law, provided for by section 13 of *The Power Commission Act,* to a vote of the electors of the Police Village qualified to vote thereon, and shall upon the like request issue debentures as provided by the said Act and levy and collect a special rate upon the rateable property in the Police Village for the payment thereof. Submission of By-law in Police Village.

(3) The council of the township in which the Police Village or any part thereof is situate, shall annually levy by special rate upon the rateable property in the Police Village, or in that part of the Police Village situate in the township, the amounts required to meet the payments to be made to The Commission. Township to levy rates.

No. 194.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to Provide for the Local Distribution of Electrical Power.

1st Reading, 8th day of March, 1911.

Mr. Beck.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 195. 1911.

BILL

An Act respecting the Publication of Certain Official Notices.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Publication of notices in district town.

1. Wherever by any Statute it is required that a notice to be given by a municipal corporation or by any company, public officer, or person, shall be by publication in a newspaper in a Provisional Judicial District, such notice may be published in a newspaper published in the District Town of the Provisional Judicial District, and if so published in the form and at the times prescribed by such Statute, such publication shall be deemed a compliance with the requirements of the Statute, notwithstanding anything to the contrary therein contained.

No. 195.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Publication of Certain Official Notices.

1st Reading, 9th day of March, 1911.

Mr. GAMEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 196. 1911.

BILL

An Act respecting Offensive Weapons.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Sale of certain weapons to unauthorized persons prohibited.

1. Every person who sells any bowie-knife, dirk, dagger, metal knuckles, skull cracker or slung shot, or who sells a revolver, pistol or air gun to any person other than one holding a certificate issued under section 118 of the Criminal Code, or one being over 18 years of age, who produces to and leaves with the vendor a permit in writing, signed by the Superintendent of Provincial Police, or a Chief Constable of the Municipality, allowing him to purchase a revolver, pistol or air gun, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $200 or less than $25, or to imprisonment for a term not exceeding six months with or without hard labour or to both.

R.S.C. c. 146.

Penalty.

Record of sales.

2. Every person who sells a revolver, pistol or air gun under the provisions of section 1 hereof, without keeping a record of the date of the sale, name of maker, serial number of such revolver, pistol or air gun, and the name, address and occupation of the purchaser, which record may be inspected at any time by any Peace Officer, or who sells any revolver, pistol or air gun which does not bear a serial number and the maker's name, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $200 or less than $25, or to imprisonment for a term not exceeding six months with or without hard labour or to both.

Search of person by Peace Officer.

3. Every Peace Officer may search any person who he has reason to believe and does believe is violating any of the provisions of sections 115, 116, 117, 118, 120, 121, 123, 124 and 127 of the Criminal Code, and may seize any of the weapons which such person is illegally carrying and any weapon seized under this section shall be confiscated and handed over to the Superintendent of Provincial Police or

to the Chief or High Constable of the municipality to be by him transferred to the Superintendent of Provincial Police or destroyed as he may see fit.

Finding weapons on foreigners.

4. If any of the weapons mentioned in the first section hereof is found upon a person believed not to be a native of Canada by the Constable making the search or by the Justice of the Peace or Magistrate before whom such person is charged with an offence, he shall report such facts to the Provincial Secretary and the Provincial Secretary may communicate with the Minister of the Interior with the view towards deporting such person under *The Immigration Act*.

Commencement of Act.

5. This Act shall come into force on a day to be fixed by Proclamation of the Lieutenant-Governor in Council.

No. 196.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Offensive Weapons.

1st Reading, 9th day of March, 1911.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 196. 1911.

BILL

An Act respecting Offensive Weapons.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Offensive Weapons Act.*

Sale of certain weapons to unauthorized persons prohibited.

2. Every person who exposes for sale, offers for sale, or sells any bowie-knife, dirk, dagger, *stiletto,* metal knuckles, skull cracker or slung shot, or who sells a revolver, pistol or air gun to any person other than one holding a certificate issued under section 118 of the Criminal Code, or one, being over 18 years of age, who produces to and leaves with the vendor a permit in writing, signed by the Superintendent of Provincial Police, or a Chief Constable of *a city or town,* allowing him to purchase a revolver, pistol or air gun, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $200 or less than $25, or to imprisonment for a term not exceeding six months with or without hard labour or to both, and the bowie-knife, dirk, dagger, stiletto, metal knuckles, skull cracker or slung shot, revolver, pistol or air gun so exposed or offered for sale, or sold by such person, shall be confiscated by the Police Magistrate or Justice and transferred to the Superintendent of Provincial Police, or destroyed as such Magistrate or Justice may see fit.

R.S.C. c. 146.

Penalty.

Record of sales.

3.—(1) Every person who sells a revolver, pistol or air gun under the provisions of section 1 hereof, without keeping a record of the date of the sale, name of maker, serial number of such revolver, pistol or air gun, and the name, address and occupation of the purchaser or who sells or exposes or offers for sale any revolver or pistol which does not bear a serial number and the makers' name, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $200 or less than $25, or to imprisonment for a term not exceeding six months with or without

hard labour or to both, and the revolver, pistol or air gun so exposed or offered for sale, or sold by such person, shall be confiscated by the Police Magistrate or Justice and transferred to the Superintendent of Provincial Police, or destroyed as such Magistrate or Justice may see fit.

(2) The record referred to in subsection 1 may be inspected at any time by any peace officer and a copy thereof shall be transmitted by the person making the sale to the Superintendent of Provincial Police within seven days after the 31st March, 30th June, 30th September, and 31st December in each year. A violation of this subsection shall render the offender liable, on summary conviction, to a penalty not exceeding $50.

Search of person by Peace Officer.

4. Every Peace Officer may search any person who he has reason to believe and does believe is violating any of the provisions of sections 115, 116, 117, 118, 120, 121, 123, 124 and 127 of the Criminal Code, and may seize any of the weapons which such person is illegally carrying and any weapon seized under this section shall be confiscated and handed over to the Superintendent of Provincial Police or to the Chief or High Constable of the municipality to be by him transferred to the Superintendent of Provincial Police or destroyed as he may see fit.

Finding weapons on foreigners.

5. If any of the weapons mentioned in the first section hereof is found upon a person believed not to be a native of Canada by the Constable making the search or by the Justice of the Peace or Magistrate before whom such person is charged with an offence, he shall report such facts to the Provincial Secretary and the Provincial Secretary may communicate with the Minister of the Interior with the view towards deporting such person under the Immigration Act.

Regulation may be made by Lieutenant-Governor in Council.

6. The Lieutenant-Governor in Council may make such regulations as shall be deemed necessary or convenient for carrying into effect the provisions of this Act.

Commencement of Act.

7.—(1) This Act shall come into force on a day to be fixed by Proclamation of the Lieutenant-Governor in Council.

(2) Any such proclamation may apply to the whole or any section or sections of this Act; and proclamations may be issued as to any section or sections at different periods.

No. 196.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Offensive Weapons.

1st Reading, 9th day of March, 1911.
2nd Reading, 14th day of March, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. **Foy.**

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 197. 1911.

BILL

An Act to amend The Public Health Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 5 of *The Public Health Act* is amended by adding thereto the following subsection: Rev. Stat., c. 248, s. 5, amended.

(2) The Chief Health Officer shall be the Executive Officer of the Board and in the intervals between meetings of the Board shall perform such duties and have such powers as are by this Act vested in the Provincial Board of Health. Duties of Chief Health Officer.

2. Section 13 of the said Act is amended by adding thereto the following paragraph: Rev. Stat., c. 248, s. 13, amended.

13. For the sanitary precautions to be taken in Health Resorts, Summer Resorts and upon boats or other vessels plying upon the inland waters of Ontario, and for preventing the pollution of such waters by the deposit therein of sewage, excreta, manure, vegetable or animal matter or filth. Preventing pollution of certain resorts and inland waters.

3. Section 30 of the said Act is amended by adding after subsection 2 the following: Rev. Stat., c. 248, s. 30, amended.

(2*a*) No By-law shall be passed for the raising of money for the purpose mentioned in subsections 1 and 2, until the proposed water supply or sewerage system as the case may be has been approved of by the Provincial Board of Health, and such approval has been certified in writing and signed by the Chairman and Secretary of the Board. The preamble of the Bill shall recite such approval. Sewerage or water supply system—approval of Provincial Board before money raised.

Rev. Stat., c. 248, s. 31, amended.

4. Section 31 of the said Act is amended by striking out the word "may" where it occurs in the first and third lines and inserting in lieu thereof the word "shall."

Rev. Stat., c. 248, s. 71, amended.

Section 71 of the said Act is amended by striking out all the words therein after the word "caused" in the fourth line and substituting therefor the words:

Abatement of nuisances by Local Board at expense of occupant or owner.

"And where the occupant or owner of any premises in which a nuisance exists fails to abate the same after having received due notice to that effect, the Local Board of Health by its Medical Health Officer or Sanitary Inspector may enter upon the said premises and take such steps as may be necessary to abate the nuisance and if the costs incurred in abating the same are not paid either by the occupant or owner within one month, the same shall be returned to the clerk of the municipality who shall place the same against the property in the collector's roll to be collected along with ordinary taxes."

Rev. Stat., c. 248, s. 90, amended.

Section 90 of the said Act is amended by inserting after the word "shall" in the sixth line the words:

"Have power to direct the closing of all or any of the Public Schools, Collegiate Institutes and Separate Schools and churches, and the prohibition of public assemblies when the Medical Health Officer or Board of Health consider it necessary for the prevention of the spreading of any of the said infectious diseases, and the said Schools, Institutes and Separate Schools and churches shall not be reopened except by order of the said Medical Health Officer or Board of Health."

No. 197.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend the Public Health Act.

1st Reading, 9th day of March, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 198. 1911.

BILL

An Act to regulate Halls, Theatres and Cinematographs

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Regulations by Lieutenant-Governor-in-Council as to theatres.

1. The Lieutenant-Governor in Council shall have power from time to time to make regulations similar or different in different localities, or with reference to different classes of buildings, or having application to different classes of performances or to different conditions governing the erection, operation and safety of theatres, including inspection and supervision, and shall have every power for such purpose which shall be necessary to carry into effect the terms of this section.

Licensing and regulating cinematographs, etc.

2. The Lieutenant-Governor in Council shall have power from time to time to impose a license fee upon, and to make regulations for, licensing, using and operating of cinematographs, moving picture machines or other similar apparatus, for prescribing the conditions under which such machines shall be operated, for licensing and operating of film exchanges, for prohibiting or regulating films to be exchanged or exhibited, for examining, regulating and licensing operators and for prescribing the terms and conditions under which such machines shall be operated or such films sold, leased or exchanged, and shall have every power for such purpose which shall be necessary to carry into effect the terms of this section.

Board of Censors.

3.—(1) The Lieutenant-Governor in Council may appoint a Board of Censors, to hold office during pleasure, composed of three persons who shall have power to permit the exhibition or absolutely to prohibit or reject all films which it is proposed to use in the Province of Ontario and to suspend for cause the license of any operator.

Appeal from Board.

(2) There shall be an appeal from the Board of Censors to the person, body or Court designated and subject to the conditions prescribed by regulation of the Lieutenant-Governor in Council.

Films to be stamped by Board of Censors.

4. No cinematograph, moving picture machine, or other similar apparatus shall exhibit any films which have not been stamped by the Board of Censors, and no such cinematograph, moving picture machine or other similar apparatus shall be kept or exhibited for entertainment until the owner, user or exhibitor of such apparatus has complied with the regulations made by the Lieutenant-Governor in Council and obtained a license from the Provincial Treasurer.

Stamps to show on Canvas.

5. All films passed or permitted to be exhibited by the said Board of Censors shall be stamped in such manner that the stamp will show upon the canvas, and no exhibition of such stamped film shall be prohibited by any police officer, or constable, or other person, on account of anything contained in such film.

Payment of license fee.

6. The user or exhibitor of every such cinematograph, moving picture machine or other similar apparatus, and the owners, lessees or managers of all film exchanges, shall pay, in advance to the Provincial Treasurer an annual license fee, the amount of which shall be fixed by regulation of the Lieutenant-Governor in Council.

Exhibiting in violation of regulations.

7. Any person in charge of such cinematograph, moving picture machine, or other similar apparatus, or the owner, proprietor, manager, or person having control thereof, who uses any such machine for public entertainment without having complied with, or who violates the regulations passed by the Lieutenant-Governor in Council, and without having therefor a license from the Provincial Treasurer, or who exhibits films not bearing the stamp of the Board of Censors, as required by this Act, shall be guilty of an offence against this Act.

Municipal licenses not to be issued, until provincial license granted.

8. No municipal corporation shall issue a license for any cinematograph, moving picture machine, or other similar apparatus, to which this Act applies, until the applicant produces a license from the Provincial Treasurer authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of any license in violation of the provisions of this Act shall be liable on summary conviction to a fine of $20, besides costs, and, in default of payment, to imprisonment for a term not exceeding 30 days.

9. Children under the age of 15 years, unaccompanied by adults, shall not be permitted to attend any exhibition by cinematograph, moving picture machine, or other similar apparatus at which exhibition an admission fee is charged. Children under 15 years of age.

10. Any person offending against any of the provisions of this Act, save sections 8 and 13, and any person offending against any of the regulations of the Lieutenant-Governor in Council passed hereunder, shall, on summary conviction, be liable to a fine of not less than $50 or more than $200 with costs, and a further fine of $25 per diem during the time after conviction which such offence continues, and in default of immediate payment the offender shall be imprisoned in the common gaol of the county where such conviction takes place for a period not exceeding three months. Penalty.

11. If any breach of this Act or of any of the regulations passed hereunder causes directly or indirectly bodily injury or loss of life, the owner, lessee, manager, operator, or other person through or by whom such breach occurred, shall, in addition to any other penalty prescribed by law, on summary conviction, be liable to imprisonment for a term not exceeding one year. Liability for bodily injury or loss of life.

12. The Ontario Provincial police are hereby empowered and directed at any time to inspect any cinematograph, moving picture machine, or other similar apparatus which is used or kept on premises licensed under this Act, to enforce the provisions of this Act and the regulations passed hereunder. Inspection of Ontario Provincial Police.

13. In cities, towns and incorporated villages, it shall also be the duty of the Chief Constable, or Chief of Police, to enforce the provisions of this Act and the regulations passed hereunder. Duty of Chief Constable.

14. All penalties recovered under this Act shall be paid to the Treasurer of the Province of Ontario for the use of said Province. Application of penalties.

15. The Lieutenant-Governor in Council shall have power to make such regulations as may be deemed necessary, advisable or convenient for the purpose of carrying into effect the provisions of this Act. Regulations.

16. This Act shall come into force and take effect on from and after the first day of June, 1911. Commencement of Act.

No. 198.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to regulate Halls, Theatres, and Cinematographs.

1st Reading, 10th day of March, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 199. 1911.

BILL

An Act to Regulate the Means of Egress from Public Buildings.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Doors of churches, etc., to open outwards.

1. In all churches, schools, houses, halls or other buildings heretofore or hereafter constructed or used for holding public meetings, or for places of public resort or amusement, all the outer doors and those leading from the assembly hall or room or school rooms shall be so hinged that they may open freely outwards, and all the gates of outer fences, if not so hinged, shall be kept open by proper fastenings during the time such buildings are publicly used, to facilitate the egress of people, in case of alarm from fire or other cause.

Who liable for neglecting provisions of Act.

2. Congregations and societies possessing corporate powers and all trustees, incumbents, churchwardens and other persons holding churches, schools or buildings used for churches or schools shall be severally liable as trustees for such societies, congregations or schools to the provisions of this Act.

Penalty.

3. Any persons owning, possessing or managing public halls, schools, houses, churches or other buildings used for public meetings, who violate the provisions of this Act, or any of them, or the regulations passed hereunder or any of them, shall be liable to a fine not exceeding $50, recoverable on information before any two of His Majesty's Justices of the Peace, or before the Mayor or Police Magistrate of any City or Town, one moiety of which fine shall be paid to the party laying the information and the other moiety to the municipality within which the case arises, and persons so complained against shall be liable to a further fine of $5 for every week succeeding that in which the complaint is laid, if the necessary changes are not made.

Regulations.

4. The Lieutenant-Governor in Council may make regulations regarding the enforcement of this Act and governing the safety and convenience of persons assembled therein in regard to all the buildings mentioned in section 1 of this Act, and shall have every such power for this purpose as shall be necessary to carry into effect the terms of this Act.

9 Edw. VII., c. 87; 10 Edw. VII., c. 26, s. 3, repealed.

5. The Act passed in the 9th year of His late Majesty King Edward VII., chaptered 87, and section 3 of *The Statute Law Amendment Act, 1910*, are repealed.

Commencement of Act.

6. This Act shall come into force and take effect on from and after the first day of June, A.D. 1911.

No. 199.

1 George V., 1911.
3rd Session, 12th Legislature,

BILL.

An Act to regulate the Means of Egress from Public Buildings.

1st Reading, 10th day of March, 1911.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

No. 200. 1911.

BILL

An Act respecting Special Classes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Establishment of special classes for backward or defective children.

The Board of Education or the Board of Public School Trustees or the Board of Separate School Trustees of any city may establish and conduct in connection with any school building or in a separate school building provided for that purpose special classes for children

(*a*) Who are backward or abnormally slow in learning;

(*b*) Who, from physical or mental causes require special training and education;

and subject to the regulations made by the Minister of Education may cause a register of such children to be made and may provide teachers and suitable appliances, books and furniture for such classes.

Admission to special classes.

2. Children may be admitted to such special classes upon the application of their parents or guardians and upon the report of the Inspector and the principal of any school at which they are in attendance.

Medical inspection.

3. The Board may provide for medical inspection by a duly qualified medical practitioner of the children attending special classes, and upon the recommendation of the medical inspector may provide for medical treatment being given to any child who appears to the medical inspector to require the same and whose parents are unable from poverty or other cause to provide adequately for the treatment of the child.

4. It shall be the duty of a Board which has established special classes under this Act to provide for the proper supervision of the health and treatment of every child attending a special class, and for this purpose to direct the medical inspector, or such officer as the Board may appoint, to visit the children in their homes and to consult and advise with the parents of the children as to their treatment in their homes and the conditions which will best enable the children to attain a normal degree of intelligence and education. Duty of School Boards as to health and treatment of child.

5. Subject to the approval of the Minister, the Board may provide a special course of study for children attending the special classes established under this Act. Special courses of teaching.

6. The Minister of Education may from time to time make regulations for the administration and enforcement of this Act and for the establishment, organization, government and examination and inspection of special classes and for prescribing the accommodation and equipment of school rooms or buildings and the arrangement of school premises for special classes. Regulations.

7. Subject to the regulations, the Minister shall annually apportion among the special classes all sums of money appropriated as a special grant therefor. Apportionment of special grant.

No. 200.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Special Classes.

1st Reading, 10th day of March, 1911.

Mr. PYNE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 201 1911.

BILL

An Act respecting Reforestration by Counties.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Counties Reforestration Act."* Short title.

2. The municipal council of a county may pass By-laws:— County by-laws acquiring lands for reforestration purposes.

(*a*) For acquiring by purchase, lease or otherwise such lands designated in the By-law as the council may deem suitable for reforestration purposes;

(*b*) For planting land so acquired and for preserving and protecting the timber thereon;

(*c*) For the management of such lands and the sale or other disposal of the timber grown thereon;

(*d*) For the issuing of debentures from time to time for the purpose of providing for the purchase of such lands to an amount not exceeding $25,000 in any one year.

3. No By-law shall be finally passed under this Act until the same shall have been approved in writing by the Minister of Agriculture. Approval of by-law by Minister of Agriculture.

No. 201.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act Respecting Reforestration by Counties.

1st Reading, 13th day of March, 1911.

Mr. DUFF.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 202. 1911.

BILL

An Act to amend the Act for The Improvement of Public Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Section 2 of the *Act for the Improvement of Public Highways* is amended by striking out all the words in subsection 3 after the word "highways" in the 11th line, and by adding to the said section the following as subsection (3*a*). 7 Edw. VII., c. 16, s. 2, amended.

(3*a*) A grant made under subsection 3 to a town or village having a population of not more than 3,000 shall be deemed to form part of the estimated expenditure in carrying out a plan of road improvement in such county for the purpose of ascertaining the amount of aid which may be granted to the county under this Act. Grant to certain towns and villages by county.

Provided, that the roads or streets to be improved in the town or village have been designated by the By-law of the council of the county, to which there shall be attached a plan of the town or village to be aided, and that such By-law has been approved by the Minister of Public Works, and that the work done upon such roads and streets is in accordance with the regulations of the Department of Public Works with respect to Highways. Proviso.

Provided, that in the case of a town or village having a population of more than 1,500, the amount granted under subsection 3 shall be expended solely upon roads and streets or portions thereof which lie opposite to lands on one side or the other thereof used for agricultural purposes; and Proviso.

Proviso.

Provided, that the approval of the Minister of Public Works in writing shall be conclusive as to the population of any town or village for the purposes of this subsection.

Amendment made to section not to affect grants heretofore made.

(2) The amendment made by this section shall not affect the payment to a town or village under the said subsection 3 of any grant made by the council of a county and approved by the Minister of Public Works before the passing of this Act, and any such grant shall be included in estimating the expenditure of the county for the purpose of ascertaining the amount of aid to which the county is entitled under the said *Act for the Improvement of Public Highways* as if this section had not been passed.

7 Edw. VII., c. 16.

No. 202.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Act for the Improvement of Public Highways.

1st Reading, 14th day of March, 1911.

Mr. REAUME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 203. 1911.

BILL

An Act to confirm Certain Contracts entered into by The Hydro-Electric Power Commission of Ontario.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Amendment of contract by addition of Brampton, Dundas, Seaforth, Mitchell and Weston.

1. The municipal corporations of the Towns of Brampton, Dundas, Seaforth, Mitchell and of the Village of Weston, are added as parties of the second part to the contract set out as Schedule "A" to *The Power Commission Act, 1909,* as varied and confirmed by the said Act and as further varied and confirmed by the Act passed in the 10th year of the reign of His late Majesty King Edward VII., chaptered 16, and the said contract shall be binding as to the Town of Brampton from the 14th day of June, 1910, as to the Town of Dundas from the 7th day of November, 1910, as to the Town of Seaforth from the 19th day of December, 1910, as to the Town of Mitchell from the 25th day of December, 1910, and as to the Village of Weston from the 17th day of June, 1910.

Addition to schedule to contract.

2. The names of the said municipal corporations are added to Schedule "B" to the said contract, and such Schedule shall be read as containing the particulars set out in Schedule "A" to this Act.

By-laws confirmed.

3. By-law No. 316 of the corporation of the Town of Brampton, By-law No. 671 of the corporation of the Town of Dundas, By-law No. 86 of the corporation of the Town of Seaforth, By-law No. 11 of the corporation of the Town of Mitchell, and By-law No. 367 of the corporation of the Village of Weston are confirmed and declared to be legal, valid and binding upon the said corporations and the ratepayers thereof respectively, and shall not be open to question upon

any ground whatsoever notwithstanding the requirements of *The Power Commission Act, 1909*, or the amendments thereto or of any other statute.

Contracts confirmed.

4. The contracts heretofore entered into by the said corporations respectively with the Commission are confirmed and declared to be legal, valid and binding upon the parties thereto respectively and shall not be open to question upon any ground whatsoever notwithstanding the requirements of *The Power Commission Act, 1909*, or the amendments thereto or of any other statute.

SCHEDULE A.

Additions to Schedule B to the contract set out in Schedule A to 9 Edw. VII., c. 19.

Name of Municipal Corporation.	Quantity of power applied for in H.P.	Maximum price of power at Niagara Falls.	No. of Volts.	Estimate maximum cost of power ready for distribution in municipality.	Estimate proportionate part of cost to construct transmission line, transformer stations and works for nominally 30,000 H.P., with total capacity of 60,000 H.P.	Estimate of proportionate part of line loss and of part cost to operate, maintain, repair, renew and insure transmission line, transformer stations and works for nominally 30,000 H.P., with total capacity of 60,000 H.P.
Brampton ..	1,300	..	..	29.40	$179,132	$15,690
Dundas	600	..	..	17.33	32,160	2,892
Seaforth	400	..	..	41.25	102,941	6,769
Mitchell ...	200	..	..	38.50	47,490	3,066
Weston	250	..	..	29.25	42,437	2,501

No. 203.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to confirm certain Contracts entered into by the Hydro-Electric Power Commission of Ontario.

1st Reading, 14th day of March, 1911.

Mr. Beck.

TORONTO:
Printed by L. K. Cameron,
Printer to the King's Most Excellent Majesty.

No. 204. 1911.

BILL

An Act respecting the Enrolment and Inspection of Stallions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Ontario Stallion Act.*

Board of registration.

2. For the purpose of this Act

How composed.

(1) The Lieutenant-Governor in Council upon the recommendation of the Minister of Agriculture shall appoint four persons who, with the Director of the Live Stock Branch of the Department of Agriculture, shall constitute The Stallion Enrolment Board, hereinafter called "The Board."

Director of Live Stock Branch to be Secretary.

(2) The Director of the Live Stock Branch of the Department of Agriculture shall be the Secretary and Executive Officer of the Board.

Inspectors.

3. The Minister of Agriculture may from time to time appoint competent persons to act as inspectors under the direction of the Board and every inspection shall be made by a committee hereinafter called "The Committee," consisting of three such persons.

Remuneration of Board and Committees.

4. The appointed members of the Board and the members of the Committees shall receive such per diem remuneration and allowance for necessary travelling expenses as may be fixed by the Lieutenant-Governor in Council out of monies voted by the Assembly.

Stallions not to be travelled until enrolled.

5.—(1) No person shall stand, travel or offer for use any stallion unless and until the name, description and pedigree of such stallion has been enrolled and a certificate of such enrolment procured as hereinafter provided.

Evidence for enrolment.

Certificate.

(2) For the purposes of enrolment the owner of every stallion shall submit to the Board all evidence of the breeding and ownership of such stallion, and upon receipt of same and payment of the fee, the Board shall issue a certificate accordingly.

Renewal of certificates.

(3) All certificates of enrolment shall be renewed annually in accordance with the regulations and upon the payment of the fee hereinafter provided.

Inspection by desire of owner.

(4) In addition, if desired by the owner, any stallion may be inspected as herein provided, in which case the report of such inspection shall form a part of the record of enrolment.

Register of enrolment.

6.—(1) The Board shall keep a register for the enrolment of stallions, which register shall be kept in such form and shall contain such particulars as may be prescribed by the regulations, and the certificate issued shall be in accordance therewith.

Transfer of ownership.

(2) Every stallion shall be enrolled in the name of the owner at the time of the enrolment, and in case of a change of ownership the enrolment shall be deemed to be cancelled unless within thirty days thereafter evidence of the change of ownership satisfactory to the Board has been furnished to the Board, in which case a transfer certificate shall be issued by the Board.

Duration of enrolment and certificate.

(3) When a stallion has been enrolled after the first day of August in any year the enrolment and certificate of enrolment of the stallion shall remain in force until the 31st day of December in the next succeeding year, and when the enrolment has been made before the first day of August in any year the enrolment and certificate thereof shall remain in force until the 31st day of December next following.

Only one inspection after stallion is eight years old.

(4) When a stallion has reached the age of eight years the first inspection thereafter shall be the final inspection and the enrolment made on the report of such final inspection shall continue to form part of the enrolment and a certificate shall be granted in accordance therewith on each subsequent renewal of such enrolment.

Biennial inspection in other cases.

(5) In the case of any other stallion, the report of the Committee shall form a part of the record of the enrolment for two years only, except as provided in subsection 3, after which the said stallion shall be submitted for re-inspection if the owner desires an extension of such certificate.

Inspection, notice of.

7. The Board shall fix the times and places at which stallions may be inspected by the Committee, and shall give notice thereof in such manner as may be prescribed by the regulations.

Proceedings of inspection.

8. A person desiring to procure the inspection of a stallion shall present the stallion for inspection and examination by the Committee, together with such evidence relating to the breeding and ownership of the stallion as may be required by the regulations.

Report on inspection.

9. The Committee shall inspect the stallion and examine the other evidence submitted and report thereon in writing to the Board.

Report, and re-inspection.

10.—(1) The report of a majority of the Committee shall be a report of the Committee, but in case the report is not unanimous, and not otherwise, the owner of the stallion may apply to the Board for another inspection and examination, and upon the owner depositing with the Board an amount sufficient in the opinion of the Board to cover the expenses of a further inspection and examination, the Board shall direct another inspection by another Committee, and their decision or the decision of a majority of them shall be final.

Costs of re-inspection.

(2) In case the appeal is not sustained, the further inspection and examination shall be payable out of the amount of the deposit, and if the appeal is allowed the amount of the deposit shall be returned to the owner.

Enrolment, mode of.

11. The Board upon consideration of the report of the Committee and after the inspection of the papers supplied relating to the breeding and ownership of the stallion, and upon payment of the fee fixed by this Act, shall make such enrolment of the name, description and pedigree of the stallion in the register herein provided for as may be deemed warranted and shall issue a certificate in accordance with such enrolment to the owner of the stallion.

Certificate, publication of.

12.—(1) The certificate of enrolment of any stallion shall form a prominent part of any newspaper or other printed advertisement issued to advertise such stallion.

Posters.

(2) Every poster issued shall contain a copy of the certificate of enrolment printed in bold face and conspicuous type and shall not contain any illustrations, pedigree or other matter which is untruthful or misleading.

Owner to exhibit certificate to owner of mare.

(3) Where no posters are used to advertise a stallion, the owner of the stallion shall exhibit to the owner of each mare at the time of service, if demanded, the original enrolment certificate issued for such stallion.

Fees.

13.—(1) The fees to be paid to the Board before the issue of any certificate shall be

For enrolment	$2.00
For inspection	5.00
For renewal of enrolment	1.00
For transfer certificate	1.00

Application of.

(2) The fees received by the Board under this Act shall be paid over to the Treasurer of Ontario for the use of the Province.

Regulations.

14. The Board, subject to the approval of the Lieutenant-Governor in Council, may make such regulations as may be deemed proper and necessary for the better carrying out of the provisions of this Act.

Penalty.

15. Every person who is guilty of a contravention of any of the provisions of this Act shall incur a penalty of not more than $100 nor less than $25, recoverable under *The Ontario Summary Convictions Act.*

Act not to apply to districts or to Haliburton.

16. This Act shall not apply to the Provisional Judicial Districts nor to the Provisional County of Haliburton.

Commencement of Act.

17. Section 5 of this Act shall not come into operation until the first day of August, 1911.

No. 204.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting the Enrolment and Inspection of Stallions.

1st Reading, 14th day of March, 1911.

Mr. DUFF.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 205. 1911.

BILL

An Act respecting Barbers.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *"The Barbers' Act."* Short title.

2. In this Act Interpretation—

(*a*) "Board" shall mean the Board of Examiners appointed under this Act; "Board."

(*b*) "Minister" shall mean the member of the Executive Council for the time being charged by the Lieutenant-Governor in Council with the administration of this Act; "Minister."

(*c*) "Regulations" shall mean regulations made under the authority of this Act. "Regulations."

3. The Lieutenant-Governor in Council may appoint a Board of Examiners consisting of five persons practically conversant with the occupation of barbers, who shall, subject to the regulations, issue licenses to such applicants therefor as shall satisfy the Board that they are suitable persons to be permitted to carry on the occupation of barber, and shall pay the fee on such license prescribed by the regulations. Board of Examiners.

4. Any three members of the Board shall form a quorum. Quorum.

5. The Lieutenant-Governor in Council may appoint one of the members of the Board or some other person to be the Secretary of the Board. Secretary.

Register.

6. The Secretary of the Board shall keep a register in which shall be entered the name of every person to whom a license is granted under this Act, and the date at which the same is granted.

Regulations by Lieutenant-Governor in Council.

7. The Lieutenant-Governor in Council may from time to time make regulations,

(*a*) For the granting of licenses to applicants therefor under this Act and the evidence to be furnished by candidates as to sobriety, good character and freedom from disease and as to previous training and experience.

(*b*) For determining the time of continuance of such licenses and renewal of same.

(*c*) For fixing the fees to be paid by applicants for any license or renewal thereof.

(*d*) For prescribing the cause for which any license may be revoked, cancelled or suspended.

(*e*) For fixing the fees or other remuneration to be paid to the members and staff of the Board.

Persons carrying on business before 1st July, 1911.

8. Every person engaged in the occupation of a barber at the time of the passing of this Act and who applies to the Board for a certificate of qualification before the 1st day of July, 1911, shall, upon furnishing such evidence of sobriety, good character, freedom from disease and experience as the Board may require, and upon payment of the prescribed fee, be entitled to receive a certificate of qualification from the Board.

Appeal from Board to Minister.

9. Any person who feels himself aggrieved by the decisions of the Board may appeal therefrom to the Minister upon giving such notice as the Minister may prescribe and the decision of the Minister shall be final.

Annual report of Board.

10. The Board shall make a report to the Minister on or before the 31st day of December in every year, shewing

(*a*) The number of licenses granted by them during the preceding year, and the persons to whom granted.

(*b*) The number of applications for licenses refused during the preceding year and the causes for refusing the same.

(*c*) The number of licenses revoked, cancelled or suspended during the preceding year.

(*d*) The amount of fees received by them from applicants for licenses and renewals thereof during the preceding year.

(*e*) The travelling and other expenses of the Board and the Secretary and the fees, salary or other remuneration received by the Board and the Secretary; and

(*f*) Such other matters as may be directed by the Minister or by the Lieutenant-Governor in Council.

Audit of receipts and expenditure.

11. The receipts and expenditure of the Board shall be audited by a Chartered Accountant, not a member of the Board, and the fees, salary or other remuneration paid to the Board shall be paid out of the fees received from candidates or others and shall in all cases be subject to the approval of the Minister.

Certificate to be kept exposed to view.

12. A license held by any person under this Act shall at all times be exposed to view in the place of business carried on by such person or in the place in which he is employed, and failure to keep such license so exposed shall be *prima facie* evidence of the lack of qualification under this Act.

Penalty for professing to be licensed.

13. After the 1st day of July, 1911, every person, who, not being the holder of a license issued by the Board or a renewal thereof, holds himself out as a barber, or uses any sign or letters or words or abbreviations importing that he is a barber shall incur a penalty not exceeding $25.

14.—(1) The Provincial Board of Health subject to the approval of the Lieutenant-Governor in Council, may make regulations,

(*a*) For prescribing the sanitary precautions to be used by barbers;

(*b*) For prescribing the method of sterilizing or cleansing of any articles kept or used in a barber shop or in the occupation of a barber;

(*c*) For prescribing the condition in which barbers shall keep their persons and clothing while engaged in their occupation;

(*d*) For regulating or prohibiting the treatment by barbers of dead bodies or of persons who are suffering from any injury or disease;

(*e*) For prescribing the penalties to be incurred for violation of the regulations of the Provincial Board of Health and for providing for the suspension or cancellation of the license of any barber found guilty of such violation.

(2) The regulations made under this section shall be enforced by the local Board of Health and Medical Health Officer of every municipality.

(3) A copy of such regulations shall be delivered or transmitted by the Provincial Board of Health to every licensed barber and shall be posted up by him in a conspicuous place in the shop or other place in which he is employed.

15.—(1) No person shall carry on the occupation of a barber who has any form of tuberculosis or venereal disease, or any contagious or infectious disease, and no license or renewal thereof shall be granted to any such person.

(2) Every person who knowingly contravenes the provisions of subsection 1 shall incur a penalty not exceeding $25.

16. *The Ontario Summary Convictions Act* shall apply to every prosecution made under this Act or any regulation made under this Act.

No. 205.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Barbers.

1st Reading, 14th day of March, 1911.

Mr. GOODERHAM.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 206. 1911.

BILL

The Assessment Amendment Act, 1911.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

4 Edw. VII., c. 23, s. 5, par. 9, amended.

When property of charitable institution not to be exempt.

1. Section 5 of *The Assessment Act* is amended by adding at the end of paragraph 9 thereof the following words: "Provided this paragraph shall not apply to any real property when occupied by any tenant or lessee."

4 Edw. VII., c. 23, s. 5, par. 16, amended.

Assessment of boilers and engines.

2. Paragraph 16 of section 5 of *The Assessment Act* is amended by inserting the words "boilers and engines" between the words "including" and "gas" in the fourth line.

4 Edw. VII., c. 23, s. 22b, amended.

Assessment of land en bloc.

3. Section 22*b* of *The Assessment Act*, as enacted by section 40 of Chapter 88 of the Acts passed in the 10th year of His late Majesty's reign, is amended by inserting after the word "section" in the seventh line the words "or the lands of any person which are not situate in any school section."

4 Edw. VII., c. 23, s. 53 (1), amended. Time for making assessment.

4. Subsection 1 of section 53 of *The Assessment Act* is amended by adding after the word "cities" in the 17th line the words "and towns."

4 Edw. VII., c. 23, s. 103 (2), amended.

5. Subsection 2 of section 103 of *The Assessment Act* is amended by adding the following as paragraph 4:—

Distress on goods and chattels sold by person taxed.

4. Upon goods and chattels which at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed.

No. 206.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

The Assessment Amendment Act, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 207. 1911.

BILL

The Municipal Amendment Act, 1911.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 87 of *The Consolidated Municipal Act 1903,* is amended by adding the following as subsection (2):

87.—(2) Where in any order heretofore made under section 24 annexing part of a township to a city the assessment of the land is fixed for a term of years, every person who is rated for sufficient real property in the annexed part to entitle a person to vote in a township shall, during the period of the fixed assessment, be entitled to vote in the city.

2. Subsection 3*a* of section 129 of *The Consolidated Municipal Act, 1903,* is amended by striking out the word "statutory" in the 6th line thereof and inserting in lieu thereof the word "solemn." Sec. 129 (3a) amended.

3. Subsection 7 of section 277 of *The Consolidated Municipal Act, 1903,* is amended by inserting after the word "purpose" in the fourth line thereof, the words "under this Act." Sec. 277 (7) amended. Reversing action of Board of Control.

4. Section 348 of *The Consolidated Municipal Act, 1903,* is repealed and the following substituted therefor: 3 Edw. VII., c. 19, s. 348 repealed.

388.—(1) In the case of municipalities which are divided into wards or polling subdivisions, the clerk of the municipality shall, before the poll is opened, prepare and deliver to the Deputy Returning Officer for every ward or polling subdivision a voters' list, printed or written, or partly printed and partly written, containing the Clerk to deliver to deputy returning officer voters' list.

names, arranged alphabetically, of all freeholders appearing by the last revised voters' list to be entitled to vote in that ward or polling subdivision and of all leaseholders whose names appear on that part of such last revised voters' list relating to the ward or subdivision and who have filed certificates as provided by subsection 1 of section 354, and he shall certify such list to be correct.

3 Edw. VII., c. 19, s. 389, amended.

5. Section 389 of *The Consolidated Municipal Act, 1903,* is amended by adding the following subsection:

Power to issue debentures for erecting, enlarging and furnishing registry office, etc.

(4) A city forming a separate Registry Division may at any meeting of the council without submitting the same to the electors, pass a by-law or by-laws for borrowing by the issue of debentures payable within twenty years, such sums of money as may be required for erecting, building, enlarging, renewing or furnishing a registry office, and for acquiring such land as may be necessary or convenient for the purposes thereof or such sums as may be required to liquidate their share of the cost thereof.

3 Edw. VII., c. 19, s. 389, subs. 1, amended. By-laws requiring assent of electors—exceptions.

6. Subsection 1 of section 389 of *The Consolidated Municipal Act, 1903,* is amended by striking out the first six lines and substituting therefor the following: "except where otherwise provided by this or any other Act every by-law for raising."

7. *The Consolidated Municipal Act, 1903,* is amended by adding thereto the following as section 432*a*:

432*a*. Every local improvement debenture containing a general promise of the Municipality to pay the moneys thereby secured, issued or to be issued pursuant to a by-law heretofore passed under the provisions of this Act, relating to local improvements, which in effect declares that the debt to be created under such by-law is further guaranteed by the municipality at large, shall be a valid debenture and shall bind the municipality at large to pay moneys secured by such debenture according to the terms thereof, notwithstanding that such debenture does not, *in form,* contain any guarantee of the municipality.

3 Edw. VII., c. 19, s. 540, amended.

8.—(1) Section 540 of *The Consolidated Municipal Act, 1903,* is amended by adding thereto the following as paragraph 3:

3.—For licensing and requiring the registration of dogs and imposing a license fee on the owners, possessors or harbourers of dogs, with the right to impose a larger fee in the cases of bitches or for each additional dog or bitch where more than one is owned, possessed or harboured by any one person or in any one household and where such license is imposed and is equal to or exceeds the amount of the tax imposed by *An Act for the Protection of Sheep and to Impose a Tax on Dogs*, the provisions of sections 1, 3, 5 and 7 of said Act shall not apply to any city, town or village while such by-law remains in force, and it shall not be necessary to enter any particulars as dog taxes on the collector's roll. Licensing dogs. Rev. Stat. c. 271.

(2) Paragraph 2 of the said section 540 is amended by adding at the end thereof the words following "or those impounded under the provisions thereof." 3 Edw. VII., c. 19, s. 540 (2), amended, killing dogs.

9. Clause (*a*) of paragraph 1 of Section 542 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "of" the words "or alterations and repairs to." Sec. 542 amended. Regulating alterations and repair of buildings.

10. Section 547 of *The Consolidated Municipal Act of 1903*, is amended by adding thereto the following words and paragraph: 3 Edw. VII., c. 19, s. 547, amended.

7. "The Council of a township may on the petition of 25 ratepayers pass a by-law or by-laws for purchasing and procuring the necessary material for operating, and for operating spraying machines for the purpose of spraying fruit trees within the municipality and for regulating the user of the same." Purchase of spraying machines.

11. Section 569 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following paragraph: 3 Edw. VII., c. 19, s. 569 amended.

"9. For providing that the reels, engines and vehicles of the Fire Department shall have the right of way on the streets and highways while proceeding to a fire or answering a fire alarm call." Fire reels to have right of way on streets.

12. Subsection 10 of section 583 of *The Consolidated Municipal Act, 1903*, is amended by inserting after the word "alleys" in the third line thereof the words "moving picture shows where vaudeville performances are introduced." Sec. 583, par. 10. amended. Preventing and regulating moving picture shows.

13. Section 618a of *The Consolidated Municipal Act, 1903*, as enacted by section 25 of *The Municipal Amendment Act, 1907*, is repealed and the following section substituted therefor:—

Materials to be used in county bridges.

618*a*. Every bridge constructed by or under the jurisdiction and control of the corporation of a county of iron, steel, concrete or stone shall be built in accordance with specifications, approved of by the engineer of the Department of Public Works of Ontario.

3 Edw. VII., c. 19, s. 636 amended.

14. Section 636 of *The Consolidated Municipal Act, 1903*, is amended by adding the following subsection:—

Power of Ontario Motor League.

(2- The Ontario Motor League shall have the same powers with reference to motor vehicles and persons travelling on or in them as the Canadian Wheelmen's Association has under subsection (1) with reference to bicycles and travellers on bicycles.

15.—(1) Subsection 1 of section 32 of *The Act Respecting the Establishment of Municipal Institutions in Territorial Districts* is amended so that the said subsection shall read as follows:—

"The Council of every such Municipality shall also have power to pass by-laws in respect of the several matters named in the following sections of *The Municipal Act*, namely, Clause 6 of section 537, clause 2 of section 539, clauses 2 to 13 inclusive of section 542, clauses 1 and 2 of section 557, clause 9 of section 559, clause 11 of section 580, clause 6 of section 586, clause 2 of section 592."

(2) Section 39 of *The Act respecting the Establishment of Municipal Institutions in Territorial Districts* is repealed and the following substituted therefor:—

39. The Council of any Municipality may pass by-laws for granting aid to any local Municipality within such Municipality or to any immediately adjoining Municipality in making, opening, widening, raising, lowering or otherwise improving any highway, road, street or bridge within such local or adjoining Municipality.



No. 207.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

The Municipal Amendment Act, 1911.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 208. 1911.

BILL

The Statute Law Amendment Act, 1911.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat. c. 267, s. 15b, amended.

1. Section 15*b* of *The Act to preserve the Forests from Destruction by Fire*, added thereto by the Act passed in the sixty-third year of the reign of Her late Majesty Queen Victoria, chapter 45, is amended by striking out the words "one half of" where they occur in the tenth and eleventh lines thereof; by striking out the words "and one half by the said Minister out of moneys voted by the Legislative Assembly for the purpose" in the thirteenth, fourteenth and fifteenth lines thereof; by striking out the words "the whole amount of" from the sixteenth line thereof; by striking out the words "one half" in the eighteenth line thereof; and by inserting after the word "expenses" in the sixteenth line thereof the words "out of moneys voted by the Legislative Assembly for the purpose."

Rev. Stat. c. 15, s. 26, amended.

2. Section 27 of *The Ontario Public Service Act*, is amended by adding the words "or to any member or members thereof" at the end of the said section.

7 Edw. VII., c. 9, amended.

3. *The Supplementary Revenue Act, 1907*, is amended by inserting after section 20 thereof the following section:

Procedure to enforce claim for payment of taxes by one co-owner against another.

20*a*. In case lands liable to acreage tax under section 16 of this Act are held by two or more co-owners and the whole of the taxes have been paid by one or more of such co-owners, and the other co-owner or co-owners have neglected or refused to pay his or their proportion of such taxes for a period of six years, the co-owner or co-owners, as the case may be, who have paid such taxes, may apply to a Judge of the High Court for a summons directed to the delinquent party or parties, calling upon him or them to make payment of the proper proportion of such taxes, to the party or parties

who have paid the same, within three months from the date of such summons, which summons shall be served in such manner as the said Judge shall direct, and if upon the return thereof it shall appear that payment has not been made in accordance therewith, the Judge may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the taxes, and such order shall be filed in the registry or land titles office as the case may require. The words "co-owner or co-owners" wherever they occur herein shall include "co-lessee or co-lessees."

7 Edw VII., c. 9, s. 21 (1), amended.

4. Subsection 1 of section 21 of *The Supplementary Revenue Act, 1907,* is amended by adding at the end thereof the following:

Notice to persons in default.

"Should the taxes due, with costs and expenses, or any part thereof, remain unpaid until within four months of the day so fixed, the Deputy-Minister shall, not later than two months prior to such day, mail or cause to be mailed by registered post to the person appearing from search or inquiry at the Registry or Land Titles Office to be the owner or last known owner of each property so in default, at what appears to the Deputy-Minister to be the address or last known address of such person so far as he can reasonably ascertain it, notice specifying the total amount of taxes, costs, expenses and penalties due or payable under this Act in respect of such property and stating that unless the same is paid on or before the day so fixed the property will be forfeited; and to the amount otherwise payable under this Act there shall in every such case be added and must be paid as costs of such notice the sum of $5 for each parcel of property."

8 Edw. VII., c. 9, s. 17 (1), amended.

5. Subsection (1) of section 17 of *The Audit Act* is amended by striking out the words "criminal investigation" in the fourth line, and inserting in lieu thereof the words "the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters."

Salaries and increases, when to take effect.

6.—(1) Where the salary or other remuneration or an increase in the salary or other remuneration attached to any office, clerkship or service is voted by the Assembly in the Estimates or Supplementary Estimates for any financial year, whether the appropriation therefor is made by the Legislature before the commencement of, or during the financial year for which the appropriation is made, unless it is otherwise expressly stated in the Estimates or Supplementary Esti-

mates, such salary, or other remuneration, or such increase shall take effect and shall be payable as from the commencement of the financial year for which the same is voted, and the portion of such salary or other remuneration or of such increase which has accrued prior to the date of the passing of the Act making the appropriation shall be payable at that date.

(2) This section shall take effect as from the 31st day of October, 1910.

7.—(1) Subsection (1) of section 21 of *The Vital Statistics Act,* passed in the eighth year of the reign of His late Majesty, chapter 28, is amended by striking out the words "which form shall be furnished to him by the Division Registrar" at the end of the said subsection, and substituting therefor the words "which shall be the certificate attached to the form of license and which certificate alone is required to be furnished to the Division Registrar by the officiating clergyman." 8 Edw. VII., c. 28, s. 21 (1), amended.

(2) Subsection (2) of section 22 of the said Act is amended by inserting the word "in" after the words "township or" in the first line of the said subsection. 8 Edw. VII., c. 28, s. 22 (2), amended.

8. *The Vital Statistics Act* is amended by adding thereto the following section: 8 Edw. VII. c. 28, amended.

20*a*.—(1) The Registrar-General may register a birth which has not been registered in accordance with section 18 provided the information is furnished in accordance with the provisions of this Act. In each such case the registration shall be made in the proper register, and the date of registration shall be stated in the proper column of the register.

(2) Where the registration of a marriage has not been made, as provided for in section 21, the Division Registrar of the Division in which a marriage occurred may register the same at any time within twelve months after the performance of the marriage ceremony, provided the information is furnished in accordance with the provisions of this Act, the registration to be made in the schedules of the current quarter.

(3) After the expiration of twelve months from the performance of the marriage ceremony, registration shall only be made by the Registrar-General, provided the information is furnished in accordance with the provisions of this Act, in which case the entry of registration shall be made in the proper register, the date of registration being entered in the proper column of the register.

(4) The Registrar-General may register a death which has not been registered by a Division Registrar in accordance with section 28, provided the information is furnished in accordance with the provisions of this Act. In each such case the registration shall be made in the proper register, and the date of registration shall be made in the proper column of the register."

Certain sections of The Ontario Companies Act to apply to loan corporations.

9. Subsections (1) and (3) of section 73, and sections 74, 75, 76 and 77 of *The Ontario Companies Act,* as amended by the Act passed in the eighth year of the reign of His late Majesty King Edward VII., chapter 43, shall apply to corporations within *The Loan Corporations Act.*

9 Edw. VII., c. 6, s. 39, amended.

10. Section 39 of *The Sheriffs Act,* passed in the ninth year of the reign of His late Majesty King Edward VII., chapter 6, is amended by adding thereto the following subsection:

(2) Sheriffs may charge as a necessary disbursement such sum for the keep of a horse as the Inspector of Legal Offices certifies to be reasonable, and any allowance for the keep of a horse heretofore made by the Inspector shall be deemed to have been properly allowed.

9 Edw VII., c. 30, s. 6, amended.

11. Paragraph (*h*) of section 6 of *The General Sessions Act,* passed in the ninth year of the reign of His late Majesty King Edward VII., is repealed and the following substituted therefor:

(*h*) At Sudbury on the first Tuesday in the month of June and on the 4th Tuesday in the month of November.

9 Edw. VII., c. 38, s. 4, amended.

12. Section 4 of *The Replevin Act,* passed in the ninth year of the reign of His late Majesty King Edward VII., chapter 38, is amended by adding thereto the following words:

"Nor for the recovery of any liquor seized by a License Inspector, Constable or other Officer under *The Liquor License Act.*

9 Edw. VII., c. 39, s. 14 (5), amended.

13. Subsection 5 of section 14 of *The Dower Act* is repealed and the following substituted therefor:—

(5) Where the wife is an infant or a person of unsound mind, notice of the application shall be served on the Official Guardian, except where such person is confined in any Provincial Asylum for the Insane, in which case the notice shall be served only on the Inspector of Prisons and Public Charities.

14. Section 4 of *The Trustee Investment Act* is amended by inserting after the words "in Ontario" in the eighth line the words "or in school debentures." 9 Edw. VII., c. 59, s. 4 (1), amended.

15.—(1) Paragraph (*d*) of section 1 of the Act passed in the ninth year of the reign of His late Majesty King Edward VII., chaptered 72, is hereby repealed and the following substituted therefor: 9 Edw. VII c. 72, s. 1, subs. 3 (d.) amended.

"(*d*) That the Railway Company completes the entire lines from Sudbury to Little Current on or before the 31st day of December, 1912."

(2) Section 4 of the said Act is amended by inserting after the word "Act" in the third line thereof the words "as amended by Section of *The Statute Law Amendment Act, 1911.*" 9 Edw. VII., c. 72, s. 4, amended.

16. Paragraph (*b*) of section 1 of the Act passed in the ninth year of the reign of His late Majesty King Edward VII., chaptered 70, is amended by striking out the figures "1911" in the last line thereof and substituting therefor the figures "1912." 9 Edw. VII., s. 1, subs. (b), amended.

17. The cash subsidy of $2,000 per mile given by subsection 1 of section 1 of the Act passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 23, to The Ontario Hudson's Bay and Western Railways Company is hereby granted to The Algoma Central and Hudson Bay Railway Company in lieu of the said The Ontario Hudson's Bay and Western Railways Company for that portion of the lines of railway of The Algoma Central and Hudson Bay Railway Company between the main line of The Canadian Pacific Railway Company and The National Transcontinental Railway a distance not exceeding 115 miles, subject to the condition that the line of railway for which the above mentioned subsidy is granted shall be commenced within two years from the date of the passing of this Act and completed within five years from such date. Subsidy granted to Ontario, etc., Ry. Co., by 62 Vic., c. 23, transferred to the Algoma Central and Hudson Bay Ry. Co.

18. The Land Grant of 5,000 acres per mile given by section 3 of the Act passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 23, to The Ontario Hudson's Bay and Western Railways Company, is hereby granted to The Algoma Central and Hudson Bay Railway Company in lieu of the said The Ontario Hudson's Land grants given to the Ontario, etc. Ry. Co., by 62 Vic., c. 23, transferred to the Algoma Central & Hudson Bay Ry. Co.

Bay and Western Railways Company for that portion of the lines of railway of The Algoma Central and Hudson Bay Railway Company between the main line of The Canadian Pacific Railway Company and The National Transcontinental Railway, a distance not exceeding 115 miles, subject to the condition that the line of railway for which the above mentioned subsidy is granted shall be commenced within two years from the date of the passing of this Act and completed within five years from such date.

9 Edw. VII., c. 89, s. 53, amended.

19. Section 53 of *The Public Schools Act* is amended by adding thereto the following subsection:

(9) Any section which has been or shall be formed at any time by dividing an existing section shall be deemed to be a new section for all purposes.

10 Edw. VII., c. 30, s. 15 (2), amended.

20. Subsection 2 of section 15 of *The County Courts Act* is amended by adding thereto the following proviso:

Provided that additional sittings may be held in the months of April and September if in consequence of there being prisoners in gaol awaiting trial the Judge of any of the above Counties considers such additional sittings necessary.

10 Edw. VII., c. 30, amended.

21. *The County Courts Act* is amended by adding thereto the following section:

Renumeration of clerk

17*a*. The Clerk shall be entitled to be paid by the County the sum of $4 for each day's attendance at all sittings of the County Court, both non-jury and jury. (See R.S.O., cap. 51, section 154.)

10 Edw. VII., c. 31, s. 71 (5), repealed.

22. Subsection 5 of section 71 of *The Surrogate Courts Act* is repealed and the following substituted therefor:

(5) Where an infant or a person of unsound mind is interested, such notice shall be served on the Official Guardian, except in the case of a person confined in a Provincial Asylum for the Insane, when such notice shall be served on the Inspector of Prisons and Public Charities.

10 Edw. VII., c. 32, s. 145 (6), amended.

23. Subsection 6 of section 145 of *The Division Courts Act* is amended by adding at the end of the 4th line the words "and the sum of ten cents per mile for every mile in excess of two miles necessarily travelled by him from his place of residence to the place at which the Court is held."

24. Section 33 of *The Justices of the Peace Act* is amended by inserting the words "or, in the case of a Districts by the Province" after the word "County" in the fourth line thereof. 10 Edw. VII., c. 35, s. 33, amended.

25. *The Constables' Act* is amended by inserting therein the following section: 10 Edw. VII., c. 39, amended.

17*a*.—(1) The Superintendent of the Ontario Provincial Police Force shall be ex-officio a Police Magistrate, and shall have and may exercise and perform the powers and duties of a Police Magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district, or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district, or other locality in which the offence charged is alleged to have been committed. Superintendent to be ex-officio police magistrate

(2) The jurisdiction conferred by subsection 1 may be exercised by the Superintendent notwithstanding that there is in the locality in which he acts a Police Magistrate, who, under *The Police Magistrate's Act*, or any other Statute, has jurisdiction exclusive or otherwise. Exercise of jurisdiction.

(3) The Lieutenant-Governor in Council may make such regulations from time to time with respect to the Ontario Provincial Police Force as he may deem expedient. Regulations

(4) The Order-in-Council, dated 1st March, 1911, adding to the regulations respecting the Ontario Provincial Police Force regulations numbered 62 and 63, is confirmed and shall be valid and binding to all intents and purposes as if the provisions contained in the said regulations had been set out and enacted herein, but nothing in this section shall prevent the Lieutenant-Governor in Council making changes in such regulations, or repealing the same as he may deem proper. Order-in-Council, confirmed.

26. *The Constables' Act* is amended by adding thereto the following section: 10 Edw. VII., c. 39, amended.

17*b*. When the Crown Attorney of any county by writing addressed to the Superintendent of the Ontario Provincial Police Force, requests the services of a member of the force, the expenses of any member of the force furnished in compliance with such request shall be certified by the Superintendent and the amount so certified shall be paid by the Treasurer of the County to the Treasurer of Ontario.

10 Edw. VII., c. 96, s. 1, repealed.

27. Section 1 of *The Act respecting Juvenile Courts*, passed in the tenth year of the reign of His late Majesty King Edward VII., chapter 96, is repealed.

10 Edw. VII., c. 26, s. 2, and 7 Edw. VII., c. 23, s. 54 amended. Bracebridge and Trading Lake Railway Co.

28.—(1) Section 54 of *The Act to incorporate the Bracebridge and Trading Lake Railway Company*, as enacted by section 2 of *The Statute Law Amendment Act, 1910*, is amended by striking out the figures "1911" and substituting the figures "1912."

(2) The time limited for the subsidy granted to the said Railway Company by the Statute passed in the first year of the reign of His late Majesty, chapter 23, is extended for two years from the passing thereof, provided that the Company shall have expended a sum of not less than $35,000 in the construction of the said Railway before the 31st day of December, 1911.

9 Edw. VII., c. 43, s. 31 amended.

29. Section 31 of *The Evidence Act* is amended by striking out all the words after the word "appointment" in the 4th line and substituting therefor the following words "or to any matter or thing as to which he is by law authorized or required to certify."

R.S.O. c. 245, s. 101 amended.

30. Section 101 of *The Liquor License Act* is amended by inserting after the word "thereof" in the 3rd line the words "if he is present" and by inserting after the word "but" in the 7th line the words "if he is not present or."

10 Edw. VII., c. 60 amended.

31.—(1) Section 62 of *The Registry Act* is repealed and the following substituted therefor:

62—(1) In the case of a registered mortgage the Registrar on receiving a certificate, Form 10, executed by the mortgagee, his executors, administrators or assigns and duly proven in the manner required for the proof of other instruments shall register the same and record it and every affidavit attached to or endorsed on it at full length in the proper order in the Registry Bool and number it in like manner as other instruments are required to be registered, recorded and numbered.

(2) The following section is added to *The Registry Act*:

66*a*. Every certificate of payment or discharge of a mortgage or of the conditions therein or of the lands or any part thereof by the mortgagee, his executors, administrators or assigns at any time

given and whether before or after the time limited by the mortgage for payment or performance, if in conformity with this Act, shall, when registered, be a discharge of the mortgage or of the lands in such certificate described, as the case may be, and shall be as valid and effectual in law as a release of the mortgage or of such lands and as a conveyance to the mortgagor, his heirs or assigns of the original estate of the mortgagor therein.

(3) Section 88 of *The Registry Act* is amended by inserting after the word "thereof" in the third line of subsection (1) the following words "and a copy of the surveyor's field notes." And subsection (2) of that section is amended by striking out the word " is " in the second line and substituting the following words "and a certified copy of the surveyor's field notes are." S. 88 amended.

(4) Section 80 of *The Registry Act* is amended by adding thereto the following as subsection (8*a*): S. 80 amended.

(8*a*) In the case of a survey hereafter made the plan shall be accompanied by a copy certified by the surveyor by whom the survey was made to be a true copy of the field notes of the survey.

32. Section 3 of *The Powers of Attorney Act* is amended by adding thereto the following paragraph:

Provided that nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made, and that the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the person making the payment. 10 Edw. VII., c. 47 amended. Imp. Act 56-57 Vict. c. 53, s. 24 part.

33.—(1) Subsection (3) of Section 143 of *The Judicature Act* is amended by inserting after the word "county" in the second line the words " and district "; and by adding the following subsection: R.S.O. c. 51, s. 143 amended.

(6) The several clerks of the District Court shall *ex officio* be local registrars of the High Court for their respective Districts.

(2) Subsection (1) of section 82 of *The Judicature Act* is amended by inserting after the word "town" in the fourth line the words "and in each Provisional Judicial District." S. 82 (1) amended.

S. 83 (1) amended.

(3) Subsection (1) of section 83 is amended by inserting after the word "counties" in the third line the words "and in each Provisional Judicial District."

S. 84 amended.

(4) Section 84 is amended by inserting after the word "county" in the second line the words "or District."

S. 85 amended.

(5) Section 85 is amended by inserting after the word "county" in the second line the words "or District."

S. 86 amended.

(6) Section 86 is amended by inserting after the word "town" in the third line the words "or District" and by inserting after the word "town" in the fourth line the words "or District" and by inserting after the word "county" in the eighth line the words "or District."

R.S.O. 1897, c. 51, s. 58, par. 1 repealed.

(7) Paragraph 1, 7 and 8 of section 58 of *The Judicature Act* is repealed.

R.S.O. 1897, c. 51, s. 57, par. 4 repealed.

(8) Paragraph 4 of section 57 of the said Act is also repealed.

(9) Section 57 of *The Judicature Act* is amended by adding thereto the following clause:

R.S.O. 1897, c. 51, s. 57 amended.

7a. A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends and the tender shall have the same effect as a tender in an action for the recovery of a debt.

9 Edw. VII., c. 47, s. 9 amended.

34.—(1) Section 9 of *The Execution Act* is amended by inserting at the commencement thereof the words "subject to the provisions of the *Land Titles Act*."

S. 32 amended.

(2) Section 32 of *The Execution Act* is amended by adding thereto the following subsection:

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where the same is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after his own property has been exhausted.

Ss. 19, 21, 25 amended.

(3) Section 19 of *The Execution Act* is amended by inserting after the word "bond" in the second line the word "mortgage" and section 21 of the said Act is amended by inserting

after the word "bond" in the third line the word "mortgage"; and section 25 of the said Act is amended by striking out the word "such" in the second line and substituting therefor the word "any" and by inserting after the word "instrument" in the third line the words "seized under the provisions of this Act."

(4) Subsection (1) of section 9 of *The Execution Act* is amended by inserting after the word "writ" in the eighth line the following words, "or any other writ by virtue of which the goods of the execution debtor might be seized or attached." 9 Edw. VII., c. 47, s. 9 (1) amended.

35.—(1) Section 10 of *The Administration of Justice Expenses Act* is amended by striking out the figures "32" in the first line thereof. 10 Edw. VII., c. 41, s. 10 amended.

(2) Section 21 of *The Administration of Justice Expenses Act* is amended by adding thereto the following subsection:—

(3) The Chairman of the Board of Audit shall have the power of summoning before the Board any person and of requiring him to give evidence on oath, and to produce such documents and things as the Board may deem requisite to the full investigation of such accounts and demands, and for that purpose shall have the same power to enforce the attendance of any person and to compel him to give evidence and produce documents and things as is vested in any court in civil cases. 8 Edw. VII., c. 37, s. 1. 10 Edw. VII., c. 41, s. 21. amended.

36. Section 3 of *The Married Women's Property Act* is amended by adding thereto the following subsection:—

(3) Where any freehold hereditament is vested in a married woman as a bare trustee, she may convey or surrender the same as if she were a feme sole, and without her husband joining in the conveyance. (See also and consider s. 18 of The Imp. Act of 1907.) R.S.O. 1897, c. 129, s. 8.

(NOTE.—*Should there be an amendment to The Territorial Divisions Act by providing for district towns, and should a provision be made establishing county towns in counties.*)

37. Subsection (2) of section 16 of *The Mechanics and Wage Earners' Lien Act* is amended by striking out the figure "5" in the third line and substituting therefor the figure "6." 10 Edw. VII. c. 69, s. 16 (2) amended.

38. Section 74 of *The Division Courts Act* is amended by striking out the words "unless and until" in the third and fourth lines and substituting therefor the word "where."

10 Edw. VII. c. 30, s. 28. amended.

39. Section 28 of *The County Courts Act* is amended by inserting after the word "forfeitures" in the fifth line the words "but not the power to remove a trustee or to appoint a new trustee under *The Trustee Act.*"

10 Edw. VII. c. 52, s. 26 amended.

40. Section 26 of *The Estates Tail Act* is amended by inserting at the end of the third line the words "from or within."

41. *The Mercantile Law Amendment Act* is amended by adding thereto the following section:—

10 Edw. VII., c. 63 amended.

(*a*) Stipulations in contracts as to the time or otherwise which would not before the passing of *The Ontario Judicature Act, 1881,* have been deemed to be or to have become of the essence of such contracts in a Court of Equity shall receive in all courts the same construction and effect as they would, prior to the passing of that Act have received in equity. R.S.O. 1897, c. 51, s. 58 (7).

(*b*) Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction, or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. R.S.O. 1897, c. 51, s. 58 (8).

9 Edw. VII., c. 37b, s. 16 amended.

42.—(1) Section 16 of *The Lunacy Act* is amended by adding thereto the following clause:—

(*l*) Give consent to the transfer or assignment of a lease where the consent of the lunatic to the transfer or assignment thereof is requisite.

(2) Subsection (2) of section 10 of *The Lunacy Act* is amended by striking out the figures and word "2 and 3" in the second line and substituting therefor the figures and word "3 and 4."

R.S.O. 1897, c. 159 repealed.

43. *The Trades Arbitration Act* is repealed.

44. Chapter 72 of the Revised Statutes, 1897, is repealed. R.S.O. 1897, c. 72, repealed

45. With the consent of "The Ontario Railway and Municipal Board" any Company supplying electricity or compressed air in any Mining Division may from time to time construct, maintain and operate such transmission lines, air pipe lines, substations and other necessary conveniences for the transmission of electric power and compressed air in and through such Mining Division, and for any of the purposes aforesaid enter upon any mining lands or any privilege or easement required by such Company for such purpose without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required or authorized, as may upon application therefor be determined by the Board or some person appointed by it whose decision shall be final, and the Board shall have power at any time to cancel any such right. This section shall not come into force until a day to be named in a proclamation of the Lieutenant-Governor in Council. Transmission of electricity in Mining Division and entering on lands without consent of owner.

46. Subsection (1) of section 12 of *The Agricultural Societies Act* is amended by striking out the words and figures "(2) A Society which expends any of its funds for any purpose of" in the 16th and 17th lines, and substituting therefor the following "(*c*) By." 10 Edw. VII., c. 19, s. 12, amended.

47. Clause (*h*) of section 91 of *The Registry Act* is amended by striking out all the words after the figures "20" in the 5th line of the said clause, and inserting in lieu thereof the words "up to 100 lots or parcels, and a fee of two cents for each lot in excess of 100." 10 Edw. VII., c. 60, s. 91, clause (h), amended.

48. Clause (*f*) of section 22 of *The County Courts Act* is amended by inserting after the word "liens" in the 3rd line the words "with or without a claim for delivery of possession or payment or both." 10 Edw. VII., c. 30, s. 22, amended.

49. Section 24 of *The Agricultural Societies Act* is hereby amended by adding after the third line thereof the following: 10 Edw. VII., c. 19, s. 24, amended.

> Provided the Superintendent on or before the thirty-first day of December in any year shall receive satisfactory proof that rain or snow shall have fallen at the place of holding an exhibition and before three o'clock in the afternoon on one or any day of the holding of an exhibition by any society and attested by the joint affidavit of the President and Secretary or Secretary-Treasurer setting forth the same, and upon his being satis-

fied that as a consequence the gate receipts have been less than the average of the previous three years of holding the exhibition of the same society, the said society shall be entitled to receive a grant equal to one half of the difference between the gate receipts of the exhibition of the current year and the average of the gate receipts of the previous three years, but the amount to be paid to any one society for this purpose shall not exceed three hundred dollars, and the total amount so paid to all societies shall not exceed ten thousand dollars.

10 Edw. VII., c. 18, s. 3 (1), amended.

50. Subsection (1) of section 3 of *The Agricultural Associations Act* is amended by adding thereto the following words "The Ontario Plowmen's Association."

7 Edw. VII., c. 9, s. 21 amended.

51. Section 21 of *The Supplementary Revenue Act* is amended by adding thereto the following subsection:

(6) Upon the registration of any such certificate of forfeiture by any Registrar the *Registry Act* shall cease to apply to the land affected thereby, and the Registrar shall in his abstract index in red ink note this fact. This subsection shall be applicable to every certificate heretofore registered.

Rev. Stat. 235, s. 3 amended.

52.—(1) Section 3 of *The Municipal Waterworks Act* is amended by inserting after the word "necessary," in the fourth line, the following words: "or to appropriate."

Rev. Stat. c. 235, s. 4 amended.

(2) Section 4 of *The Municipal Waterworks Act* is amended by inserting after the word "waterworks," in the sixth line, the following words: "or of protecting the same or for the purpose of preserving the purity of the water supply, and may appropriate such parts of the said lands."

County of Essex and city of Windsor may make agreement for providing offices for Crown officers.

53. The Corporation of the County of Essex and the Corporation of the City of Windsor may enter into an agreement for providing and maintaining suitable accommodation in the City of Windsor for offices for the Crown Attorney, Local Master and Local Registrar of the High Court, and chambers and offices for the County Judges and for other officers connected with the administration of justice in the said county, and either of the said Corporations may acquire by purchase, lease or otherwise in the City of Windsor the necessary land or land and buildings for such offices, and may erect buildings and furnish and maintain the same for all or any of such purposes, and may borrow money by the issue of debentures, payable within 30 years from the date of the issue thereof, to pay the cost of such land and buildings, without obtaining the assent of the ratepayers.

No. 208.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

The Statute Law Amendment Act, 1911.

1st Reading, 14th day of March, 1911.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 208. 1911.

BILL

Clauses to be added to The Statute Law Amendment Act.

IN COMMITTEE.

60. Section 4 of *The Fruit Pests Act* is amended by adding the following words:—

"Or sell or dispose of, or offer for sale any fruit infested with San Jose Scale, Yellows or Little Peach. Wherever such diseased fruit exists or is believed by the Provincial Inspector to exist he may make an examination and inspection and may order any fruit so infested, or such part as he may deem advisable, to be destroyed."

61. Clause (*b*) of section 5 of the said Act is amended by striking out the word "May" in the last line and substituting therefor the word "March," but this section shall not come into effect until 1st January, 1912.

62. Clause (*c*) of section 5 is repealed and the following clause substituted therefor:

"(*c*) Upon the report of the Inspector appointed by the municipality to the Inspector appointed under section 3 of this Act, that there is disease upon the plants on any lot within the municipality, the latter Inspector shall direct the former Inspector to give notice personally or by registered letter to the owner or occupant of the lot to have the plants forthwith sprayed or to have them destroyed by burning, as may be determined by the Inspector appointed under section 3 of this Act; and in case this is not done within ten days after the notice has been given the Inspector appointed by the municipality may

cause the spraying or destruction by burning to be done, and on notice being sent to the Clerk the cost of the work shall be charged on the lot and be collected as a special tax in addition to the other taxes imposed by the municipal council on the lot."

63. Section 16 of *The Supplementary Revenue Act, 1907*, as amended by section 4 of the Act passed in the 8th year of the Reign of His late Majesty King Edward VII., and chaptered 15, is amended by adding at the end thereof the following additional proviso:

Provided that there shall be no right to exemption under this subsection unless a claim for such exemption shall have been made and proof by affidavit or otherwise of the facts shall have been furnished to the Bureau of Mines not later than the 1st of March of the year in which the tax is payable, nor unless such claim for exemption shall have been approved in writing by the Mine Assessor; but in the year 1911 said claim and affidavit may be filed at any time prior to the 1st of September, 1911.

64. Section 2 of the Act passed in the 8th year of the Reign of His late Majesty King Edward VII., and chaptered 134, is repealed and the following section substituted therefor:

2. Notwithstanding anything contained in the said Acts and in *The Ontario Railway Act, 1906*, the railway authorized by the said Acts shall be completed within three years from the passing of this Act, and if the railway is not completed and put in operation within six years from the 14th day of April, 1908, then the powers granted to the said Company by the said Acts shall cease and be null and void as respects so much of the railway as then remains uncompleted.

65. Clauses (*a*) and (*c*) of section 4 of the Act passed in the 9th year of the Reign of His late Majesty King Edward VII., and chaptered 69, are both repealed and the following clauses respectively substituted therefor:

(*a*) The work of constructing the Lac Seul, Rat Portage and Keewatin Line of Railway shall be com-

menced within four years from the 13th April, 1909, and completed within five years from the said date.

(*c*) The work of constructing the Central Ontario line of railway shall be completed within four years from the 13th April, 1909.

66. Subsection (2) of section 5 of *The Act respecting the Town of Smith's Falls,* passed at the present session, is amended by inserting after the word "street" in the 8th line of the said subsection, the words "or made private drain connections from any sewer existing or to be constructed to the line of the street on the side of the street on which such sidewalk is located," and the said amendment shall be incorporated in the said Act in the annual volume of the Statutes.

67. *The Act to incorporate the Village of Killaloe Station,* passed at the present session, is amended by striking out of the preamble the figures and words "4 and 5 in the 4th Concession of the Township of Hagarty, and lots numbers 4, 5 and 6" in the 5th and 6th lines thereof, and substituting therefor the figures and words "5 and 6 in the 4th Concession, and lots numbers 5, 6 and 7," and by striking out all the words after the word "say" in the 3rd line of section 2 and substituting therefor the following:

"lots numbers 5 and 6 in the 4th concession, and lots 5, 6 and 7 in the 5th concession of the said Township of Hagarty, amounting in all to about 500 acres, inclusive of all the allowances for roads within or between the said lands."

and the said amendment shall be incorporated in the said Act in the annual volume of the Statutes.

68. Notwithstanding anything contained in *The Agricultural Societies Act,* the society known as "The Cooksville Agricultural Society" is hereby declared to be an Agricultural Society, under the provisions of *The Agricultural Societies Act,* and to have all the rights and privileges of an Agricultural Society under the said Act.

69. Section 2 of the Act passed in the eighth year of the reign of His late Majesty, King Edward the Seventh, intituled an Act to amend *The Ontario Companies Act,* is amended by adding the following subsections:

(6) In addition to the securities in which under *The Trustee Act* a trustee may invest, a trust com-

pany may invest trust money in the debentures of any municipal corporation in the Province of Manitoba, Saskatchewan or Alberta, or in any other Province which may be named by the Lieutenant-Governor in Council.

(7) Any money heretofore invested by a trust company in the debentures of any municipal corporation in any of the Provinces mentioned in subsection (6), or in the Province of British Columbia, shall be deemed to have been lawfully and properly invested, provided that such investments are in other respects reasonable and proper.

(8) The Supreme Court may enter into an agreement with any trust company for the investment of moneys paid into Court by parties or under any order of judgment, or under rules of Court on such terms and conditions as may be agreed on with such company.

70. Subsection (5) of section 14 of *The Dower Act* is repealed and the following substituted therefor:

(5) Where the wife is an infant or a person of unsound mind, notice of the application shall be served on the Official Guardian, except where such person is confined in any Provincial Asylum for the Insane, in which case the notice shall be served only on the Inspector of Prisons and Public Charities.

71. Subsection (5) of section 71 of *The Surrogate Courts Act* is repealed, and the following substituted therefor:

(5) Where an infant or a person of unsound mind is interested, such notice shall be served on the Official Guardian, except in the case of a person confined in a Provincial Asylum for the Insane, when such notice shall be served on the Inspector of Prisons and Public Charities.

72. Section 13 of *The Act for the Protection of Persons employed in the Construction of Buildings,* passed at the present session is amended by striking out the words "dwelling house" in the 2nd line and substituting therefor the word "building," and by striking out the word "nor" in the 3rd line, and substituting therefor the words "or to any farm building or"; and the said amendments shall be incorporated in the said section in the annual volume of the Statutes.

No. 208.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

Additions to The Statute Law Amendment Act, 1911.

(For consideration in Committee of the Whole.)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 208. 1911.

BILL

The Statute Law Amendment Act, 1911.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 15*b* of *The Act to preserve the Forests from Destruction by Fire,* added thereto by the Act passed in the sixty-third year of the reign of Her late Majesty Queen Victoria, chapter 45, is amended by striking out the words "one half of" where they occur in the tenth and eleventh lines thereof; by striking out the words "and one half by the said Minister out of moneys voted by the Legislative Assembly for the purpose" in the thirteenth, fourteenth and fifteenth lines thereof; by striking out the words "the whole amount of" from the sixteenth line thereof; by striking out the words "one half" in the eighteenth line thereof; and by inserting after the word "expenses" in the sixteenth line thereof the words "out of moneys voted by the Legislative Assembly for the purpose." Rev. Stat. c. 267, s. 15*b*, amended.

2. Section 27 of *The Ontario Public Service Act* is amended by adding the words "or to any member or members thereof" at the end of the said section. Rev. Stat. c. 15, s. 26, amended.

3. *The Supplementary Revenue Act, 1907,* is amended by inserting after section 20 thereof the following section: 7 Edw. VII., c. 9, amended.

20*a*.—(1) *Where* lands liable to acreage tax under section 16 are held by two or more co-owners and the whole of the taxes have been paid by one or more of such co-owners, and the other co-owner or co-owners have neglected or refused to pay his or their proportion of such taxes for a period of six years, the co-owner or co-owners who have paid such taxes may apply to a Judge of the High Court for a summons directed to the delinquent *co-owner or co-owners,* calling upon him or them to make payment of the proper proportion of such taxes, to the *co-owner or co-owners* who Procedure to enforce claim for payment of taxes by one co-owner against another.

have paid the same, within three months from the date of such summons.

(2) *The* summons shall be served in such manner as the said Judge shall direct, and if upon the return thereof it shall appear that payment has not been made in accordance therewith, the Judge may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the taxes, and such order shall be *registered* in the *proper* registry or land titles office.

(3) *In this section* " co-owner or co-owners " shall include " co-lessee or co-lessees."

7 Edw. VII., c. 9, s. 21 (1), amended.

4. Subsection 1 of section 21 of *The Supplementary Revenue Act, 1907,* is amended by adding at the end thereof the following *as subsection* (1*a*):

Notice to persons in default.

(1*a*) *If* the taxes due, with costs and expenses, or any part thereof, remain unpaid until within four months of the day so fixed, the Deputy-Minister shall, not later than two months prior to such day, mail or cause to be mailed by registered post to the person appearing from search or inquiry at the Registry or Land Titles Office to be the owner or last known owner of each property so in default, at what appears to the Deputy-Minister to be the address or last known address of such person so far as he can reasonably ascertain it, notice specifying the total amount of taxes, costs, expenses and penalties due or payable under this Act in respect of such property and stating that unless the same is paid on or before the day so fixed the property will be forfeited; and to the amount otherwise payable under this Act there shall in every such case be added and *shall* be paid as costs of such notice the sum of $5 for each parcel of property."

8 Edw. VII., c. 9, s. 17 (1), amended.

5. Subsection (1) of section 17 of *The Audit Act* is amended by striking out the words "criminal investigation" in the fourth line, and inserting in lieu thereof the words "the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters." ☞and the certificate of the auditor for the issue of the cheque mentioned in section 13 shall not be required.☜

Salaries and increases, when to take effect

6.—(1) ☞Notwithstanding anything in *The Ontario Public Service Act*,☜ where the salary or other remuneration or an increase in the salary or other remuneration attached to any office, clerkship or service is voted by the Assembly in the Estimates or Supplementary Estimates for

any financial year, whether the appropriation therefor is made by the Legislature before the commencement of, or during the financial year for which the appropriation is made, and notwithstanding that the officer, clerk or servant was appointed after the commencement of the financial year for which the salary or other remuneration or increase was voted, unless it is otherwise expressly stated in the Estimates or Supplementary Estimates, or directed by the Lieutenant-Governor in Council, such salary, or other remuneration, or such increase, shall take effect and shall be payable as from the commencement of *that* financial year, and the portion of such salary or other remuneration or of such increase which has accrued *before* the date of the passing of the Act making the appropriation shall be payable at that date.

(2) This section shall take effect as from the 31st day of October, 1910.

7.—Subsection (1) of section 21 of *The Vital Statistics Act* is amended by adding at the end of the subsection the words, " but in the case of a marriage solemnized under the authority of a license or certificate it shall be sufficient to report the same on the form attached to the license or certificate."

8 Edw. VII., c. 28, s. 21 (1), amended.

8. *The Vital Statistics Act* is amended by adding thereto the following section *as section* 20*a*.

8 Edw. VII., c. 28, s. 22 (2), amended.

20*a*.—(1) The Registrar-General may register a birth which has not been registered in accordance with section 18 *if* the information is furnished in accordance with the provisions of this Act, *and* the registration shall be made in the proper register, and the date of registration shall be entered in the proper column of the register.

8 Edw. VII. c. 28, amended.

(2) Where the registration of a marriage has not been made, as provided *by* section 21, the Division Registrar of the Division in which a marriage *was solemnized* may register the same at any time after the *solemnization* of the marriage *if* the information is furnished in accordance with the provisions of this Act, *and* the registration *shall* be made in the schedules of the current quarter.

(3) After the expiration of twelve months from the solemnization of the marriage, registration shall only be made by the Registrar-General, *if* the information is furnished in accordance with the provisions of this Act, *and* the entry of registration shall be made in the proper register, *and* the date of registration *shall be* entered in the proper column of the register.

(4) The Registrar-General may register a death which has not been registered by a Division Registrar in accordance with section 28, *if* the information is furnished in accordance with the provisions of this Act, and the registration shall be made in the proper register, and the date of registration shall be *entered* in the proper column of the register."

The Ontario Ontario Companies Act amended.

9.—(1) *The Ontario Companies' Act* is amended in the following manner:

(*a*) In section 44, by striking out the word "or" in the last line and substituting therefor the word "and."

(*b*) In section 73, as amended by 8 Edward VII., Chapter 43, section 1, subsections 5 and 6, by striking out the words, "Provided, however, that nothing in this part of this Act shall apply to promissory notes, bills of exchange, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business," and substituting therefor the following: Nothing in this section shall limit or restrict the power of the corporation to borrow money on bills of exchange, promissory notes, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business."

(*c*) In section 141 by striking out the word "thereof" in the third line and inserting in lieu thereof the words, "who are present"; and by adding the following words at the end thereof: "This section shall be construed as if it had been wholly enacted on the 20th day of April, 1907."

(*d*) In section 154, by striking out the word "or" in the fourth line thereof and substituting therefor the word "and."

(2) The words "other securities" in clause (*b*) of section 73 of the said Act and in the Acts thereby repealed, include and are declared to always have included debenture stock both perpetual and terminable.

(3) Clause (2) of section 73 is repealed.

9 Edw. VII., c. 6, s. 39, amended.

10. Section 39 of *The Sheriffs Act* is amended by adding thereto the following subsection:

(2) Sheriffs may charge as a necessary disbursement such sum for the keep of a horse as the Inspector of Legal Offices certifies to be reasonable, and any allowance for the keep of a horse heretofore made by the Inspector shall be deemed to have been properly allowed.

11.—(1) Paragraph (*h*) of section 6 of *The General Sessions Act* is repealed and the following substituted therefor: 9 Edw. VII., c. 30, s. 6, amended.

(*h*) At Sudbury on the first Tuesday in the month of June and on the 4th Tuesday in the month of November.

(2) Subsection (1) of section 4 of *The General Sessions Act* as amended by section 32 of *The Statute Law Amendment Act, 1910,* is amended by striking out the word "Wentworth" in the fifth line, and subsection 3 of said section 4 as amended by section 32 of *The Statute Law Amendment Act, 1910,* is amended by striking out the words "and Wentworth" in the first line and inserting the word "and" before the word "Middlesex."

(3) Subsection 2 of section 4 of *The General Sessions Act* is amended by striking out the words "County of York" in the first line and substituting therefor "the Counties of York and Wentworth."

(4) This section shall come into force on the 1st day of August, 1911.

12. Section 4 of *The Replevin Act* is amended by adding thereto the following words: 9 Edw. VII., c. 38, s. 4, amended.

"Or for the the recovery of any liquor seized by a License Inspector, Constable or other Officer under *The Liquor License Act.*

15.—(1) Paragraph (*d*) of section 1 of the Act passed in the ninth year of the reign of His late Majesty King Edward VII., chaptered 72, is hereby repealed and the following substituted therefor: 9 Edw. VII., c. 72, s. 1, subs. 3 (d.), amended.

"(*d*) That the Railway Company completes the entire lines from Sudbury to Little Current on or before the 31st day of December, 1912."

(2) Section 4 of the said Act is amended by inserting after the word "Act" in the third line thereof the words "as amended by Section of *The Statute Law Amendment Act, 1911.*" 9 Edw. VII., c. 72, s. 4, amended.

16. Paragraph (*b*) of section 1 of the Act passed in the ninth year of the reign of His late Majesty King Edward VII., chaptered 70, is amended by striking out the figures "1911" in the last line thereof and substituting therefor the figures "1912." 9 Edw. VII., s. 1, subs. (b), amended.

Subsidy granted to Ontario, etc. Ry. Co., by 62 Vic., c. 23, transferred to the Algoma Central and Hudson Bay Ry. Co.

17. The cash subsidy of $2,000 per mile given by subsection 1 of section 1 of the Act passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 23, to The Ontario Hudson's Bay and Western Railways Company is hereby granted to The Algoma Central and Hudson Bay Railway Company in lieu of the said The Ontario Hudson's Bay and Western Railways Company for that portion of the lines of railway of The Algoma Central and Hudson Bay Railway Company between the main line of The Canadian Pacific Railway Company and The National Transcontinental Railway a distance not exceeding 115 miles, subject to the condition that the line of railway for which the above mentioned subsidy is granted shall be commenced within two years from the date of the passing of this Act and completed within five years from such date.

Land grants given to the Ontario, etc. Ry. Co., by 62 Vic., c. 23, transferred to the Algoma Central & Hudson Bay Ry. Co.

18. The Land Grant of 5,000 acres per mile given by section 3 of the Act passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 23, to The Ontario Hudson's Bay and Western Railways Company, is hereby granted to The Algoma Central and Hudson Bay Railway Company in lieu of the said The Ontario Hudson's Bay and Western Railways Company for that portion of the lines of railway of The Algoma Central and Hudson Bay Railway Company between the main line of The Canadian Pacific Railway Company and The National Transcontinental Railway, a distance not exceeding 115 miles, subject to the condition that the line of railway for which the above mentioned subsidy is granted shall be commenced within two years from the date of the passing of this Act and completed within five years from such date.

9 Edw. VII., c. 89, s. 15, amended.

19. Section 15 of *The Public Schools Act* is amended by adding thereto the following subsection:

(5) Any section which has been or shall be formed at any time by dividing an existing section shall be deemed to be a new section for all purposes.

10 Edw. VII., c. 30, s. 15 (2), amended.

20.—(1) Subsection 2 of section 15 of *The County Courts Act* is amended by striking out the words "and Wentworth" in the first line and adding the word "and" before the word "Middlesex" in the same line.

(2) Subsection 3 of section 15 is amended by adding after the word "York" in the first line the words "and the County of Wentworth."

(3) Subsection 4 of said section 15 is amended by adding after the word "York" in the first line the words "and in the County of Wentworth."

21. *The County Courts Act* is amended by adding thereto the following section: 10 Edw. VII., c. 30, amended.

17*a*. The Clerk shall be entitled to be paid by the County the sum of $4 for each day's attendance at all sittings of the County Court, both non-jury and jury. (See R.S.O., cap. 51, section 154.) Renumeration of clerk

23. Subsection 6 of section 145 of *The Division Courts Act* is amended by adding at the end of the 4th line the words "and the sum of ten cents per mile for every mile in excess of two miles necessarily travelled by him from his place of residence to the place at which the Court is held." 10 Edw. VII., c. 32, s. 145 (6), amended.

24. Section 33 of *The Justices of the Peace Act* is amended by inserting the words "or, in the case of a District *from* the Province" after the word "County" in the fourth line thereof. 10 Edw. VII., c. 35, s. 33, amended.

25. *The Constables' Act* is amended by inserting therein the following section: 10 Edw. VII., c. 39, amended.

17*a*.—(1) The Superintendent of the Ontario Provincial Police Force shall be ex-officio a Police Magistrate, and shall have and may exercise and perform the powers and duties of a Police Magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district, or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district, or other locality in which the offence charged is alleged to have been committed. Superintendent to be ex-officio police magistrate

(2) The jurisdiction conferred by subsection 1 may be exercised by the Superintendent notwithstanding that there is in the locality in which he acts a Police Magistrate, who, under *The Police Magistrate's Act*, or any other Statute, has jurisdiction exclusive or otherwise. Exercise of jurisdiction.

(3) The Lieutenant-Governor in Council may make such regulations from time to time with respect to the Ontario Provincial Police Force as he may deem expedient. Regulations

(4) The Order-in-Council, dated 1st March, 1911, adding to the regulations respecting the Ontario Provincial Police Force regulations numbered 62 and 63, is confirmed and shall be valid and binding to all intents and purposes as if the provisions contained in *such* regulations had been set out and enacted herein, but nothing in this section shall prevent the Lieutenant-Governor in Council *from* making Order-in-Council confirmed

changes in such regulations, or repealing the same as he may deem proper.

10 Edw. VII., c. 39, amended

26. *The Constables' Act* is amended by adding thereto the following section:

17*b*. When the Crown Attorney of any county by writing addressed to the Superintendent of the Ontario Provincial Police Force, requests the services of a member of the force, the expenses of any member of the force furnished in compliance with such request shall be certified by the Superintendent and the amount so certified shall be paid by the Treasurer of the County to the Treasurer of Ontario.

10 Edw. VII., c. 96, s. 1, repealed.

27. Section 1 of *The Act respecting Juvenile Courts*, passed in the tenth year of the reign of His late Majesty King Edward VII., chapter 96, is repealed.

10 Edw. VII., c. 22, s. 54 and 7 Edw. VII., c. 23, s. 54 amended. Bracebridge and Trading Lake Railway Co.

28.—(1) Section 54 of *The Act to incorporate the Bracebridge and Trading Lake Railway Company*, as enacted by section 2 of *The Statute Law Amendment Act, 1910*, is amended by striking out the figures "1911" and substituting the figures "1912."

(2) The time limited for the subsidy granted to the said Railway Company by the Statute passed in the first year of the reign of His late Majesty, chapter 22, is extended for two years from the passing hereof, provided that the Company shall have expended a sum of not less than $35,000 in the construction of the said Railway before the 31st day of December, 1911.

9 Edw. VII., c. 43, s. 31 amended.

29. Section 31 of *The Evidence Act* is amended by striking out all the words after the word "appointment" in the 4th line and substituting therefor the following words "or to any matter or thing as to which he is by law authorized or required to certify."

31.—(1) Section 62 of *The Registry Act* is repealed and the following substituted therefor:

10 Edw. VII., c. 60 amended.

62. In the case of a registered mortgage the Registrar on receiving a certificate, Form 10, executed by the mortgagee, his executors, administrators or assigns and duly proven in the manner required for the proof of other instruments shall register the same and record it and every affidavit attached to or endorsed on it at full length in the proper order in the Registry Book

and number it in like manner as other instruments are required to be registered, recorded and numbered.

(2) The following section is added to *The Registry Act*:

66*a*. Every certificate of payment or discharge of a mortgage or of the conditions therein or of the lands or any part thereof by the mortgagee, his executors, administrators or assigns at any time given and whether before or after the time limited by the mortgage for payment or performance, if in conformity with this Act, shall, when registered, be a discharge of the mortgage or of the lands in such certificate described, as the case may be, and shall be as valid and effectual in law as a release of the mortgage or of such lands and as a conveyance to the mortgagor, his heirs or assigns of the original estate of the mortgagor therein.

(3) Section 88 of *The Registry Act* is amended by inserting after the word "thereof" in the third line of subsection (1) the following words "and a copy of the surveyor's field notes, *if any.*" And subsection (2) of that section is amended by striking out the word "is" in the second line and substituting the following words "and a certified copy of the surveyor's field notes, *if any,* are." S. 88 amended.

(4) Section 80 of *The Registry Act* is amended by adding thereto the following as subsection (8*a*): S. 80 amended.

(8*a*) In the case of a survey hereafter made the plan shall be accompanied by a copy certified by the surveyor by whom the survey was made to be a true copy of the field notes, *if any,* of the survey.

32. Section 3 of *The Powers of Attorney Act* is amended by adding thereto the following paragraph:

Provided that nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made, and that the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the person making the payment. 10 Edw. VII., c. 47 amended. Imp. Act 56-57 Vict. c. 53, s. 24 part.

33.—(1) Subsection (3) of Section 143 of *The Judicature Act* is amended by adding the following subsection: R.S.O. c. 51, s. 143 amended.

(6) The clerks of the District Courts shall *ex officio* be local registrars of the High Court for their respective Districts.

S. 82 (1) amended.

(2) Section 2 of the said Act is amended by adding the following paragraphs:

14. "County" shall include "District."

15. "County Court" shall include "District Court."

16. "County Town" shall include "District Town."

R.S.O. 1897, c. 51, s. 58, par. 1 repealed.

(3) Paragraphs 1, 7 and 8 of section 58 of *The Judicature Act* are repealed.

R.S.O. 1897, c. 51, s. 57, par. 4 repealed.

(4) Paragraph 4 of section 57 of the said Act is also repealed.

(5) Section 57 of *The Judicature Act* is amended by adding thereto the following clause:

R.S.O. 1897, c. 51, s. 57 amended.

7*a*. A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends and the tender shall have the same effect as a tender in an action for the recovery of a debt.

9 Edw. VII., c. 47, s. 9. amended.

34.—(1) Section 9 of *The Execution Act* is amended by inserting at the commencement thereof the words "subject to the provisions of the *Land Titles Act*."

S. 32 amended.

(2) Section 32 of *The Execution Act* is amended by adding thereto the following subsection:

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where the same is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after *the* property *of the deceased* has been exhausted.

(3) Section 18 is amended by inserting after the word "bonds" in the tenth line the word "mortgages."

Ss. 19, 21, 25 amended.

(4) Section 19 of *The Execution Act* is amended by inserting after the word "bond" in the second line the word "mortgage" and section 21 of the said Act is amended by inserting

after the word "bond" in the third line the word "mortgage"; and section 25 of the said Act is amended by striking out the word "such" in the second line and substituting therefor the word "any" and by inserting after the word "instrument" in the third line the words "seized under the provisions of this Act."

(5) Subsection (1) of section 9 of *The Execution Act* is amended by inserting after the word "writ" in the eighth line the following words, "or any other writ by virtue of which the goods of the execution debtor might be seized or attached." 9 Edw. VII., c. 47, s. 9 (1) amended.

(6) *The Execution Act* is amended by adding thereto the following section as section 9*a*:

☞ 9*a*. Subject to the provisions of *The Judicature Act and Rules of Court*, lands and other hereditaments and real estate, belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty, or to any of his subjects, and shall be assets for the satisfaction thereof, and shall be subject to the like remedies, proceedings and process, for seizing, selling or disposing of the same, towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. ☜

35.—(1) Section 10 of *The Administration of Justice Expenses Act* is amended by striking out the figures "32" in the first line thereof. 10 Edw. VII., c. 41, s. 10 amended.

(2) Section 21 of *The Administration of Justice Expenses Act* is amended by adding thereto the following subsection:— 10 Edw. VII., c. 41, s. 21. amended.

(3) The Chairman of the Board of Audit shall have the power of summoning before the Board any person and of requiring him to give evidence on oath, and to produce such documents and things as the Board may deem requisite to the full investigation of such accounts and demands, and for that purpose shall have the same power to enforce the attendance of any person and to compel him to give evidence and produce documents and things as is vested in any court in civil cases. 8 Edw. VII., c. 37, s. 1.

36. Section 3 of *The Married Women's Property Act* is amended by adding thereto the following subsection:— R.S.O. 1897, c. 129, s. 8.

(3) Where any freehold hereditament is vested in a married woman as a bare trustee, she may convey or surrender the same as if she were a feme sole, and without her husband joining in the conveyance.

10 Edw. VII. c. 69, s. 16 (2) amended.

37. Subsection (2) of section 16 of *The Mechanics and Wage Earners' Lien Act* is amended by striking out the figure "5" in the third line and substituting therefor the figure "6."

10 Edw. VII., c. 32, s. 74, amended.

38. Section 74 of *The Division Courts Act* is amended by striking out the words "unless and until" in the third and fourth lines and substituting therefor the word "where."

10 Edw. VII. c. 30, s. 28 amended

39. Section 28 of *The County Courts Act* is amended by inserting after the word "forfeitures" in the fifth line the words "but *shall* not *have* the power to remove a trustee or to appoint a new trustee under *The Trustee Act.*"

10 Edw. VII. c. 52, s. 26 amended

40. Section 26 of *The Estates Tail Act* is amended by inserting at the end of the third line the words "from or within."

41. *The Mercantile Law Amendment Act* is amended by adding thereto the following section:—

10 Edw. VII. c. 63 amended

(*a*) Stipulations in contracts as to the time or otherwise which would not before the passing of *The Ontario Judicature Act, 1881,* have been deemed to be or to have become of the essence of such contracts in a Court of Equity shall receive in all courts the same construction and effect as they would prior to the passing of that Act have received in equity. R.S.O. 1897, c. 51, s. 58 (7).

(*b*) Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction, or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. R.S.O. 1897, c. 51, s. 58 (8).

9 Edw. VII., c. 37b, s. 16 amended.

42.—(1) Section 16 of *The Lunacy Act* is amended by adding thereto the following clause:—

(*l*) Give consent to the transfer or assignment of a lease where the consent of the lunatic to the transfer or assignment thereof is requisite.

(2) Subsection (2) of section 10 of *The Lunacy Act* is amended by striking out the figures and word "2 and 3" in the second line and substituting therefor the figures and word "3 and 4."

R.S.O. 1897, c. 159 repealed

43. Chapters 5, 31, 34, 35, 50, 58, 72 and 159 of the Revised Statutes of Ontario 1897, and the Act passed in the 63rd year of the reign of Her late Majesty Queen Victoria, Chaptered 9, and Chapter 10 of the Acts passed in the 1st year of the reign of His late Majesty King Edward the Seventh are repealed.

Transmission of electricity in Mining Division and entering on lands without consent of owner.

45.—(1) With the consent of the Lieutenant-Governor-in-Council and on such terms as he may see fit any Company authorized to supply electrical power or energy or compressed air or both may from time to time construct, maintain and operate transmission lines, air pipe lines, sub-stations and other conveniences for the transmission of electrical power or energy or compressed air or both in and through any mining division and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof but subject to the payment of such compensation or annual rent for the privilege or easement required, and authorized as may be determined by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may from time to time revoke or vary the terms upon which any right conferred under the authority of this section may be exercised.

(2) This section shall not come into force until a day be named in a Proclamation of the Lieutenant-Governor in Council.

10 Edw. VII., c. 19, s. 12, amended.

46. Subsection (1) of section 12 of *The Agricultural Societies Act* is amended by striking out the words and figures "(2) A Society which expends any of its funds for any purpose of" in the 16th and 17th lines, and substituting therefor the following "(*c*) By."

10 Edw. VII., c. 60, s. 91, clause (h), amended.

47. Clause (*h*) of section 91 of *The Registry Act* is amended by striking out all the words after the figures "20" in the 5th line of the said clause, and inserting in lieu thereof the words "up to 100 lots, and a fee of two cents for each lot in excess of 100."

10 Edw. VII. c. 30, s. 22 amended.

48. Clause (*f*) of section 22 of *The County Courts Act* is amended by inserting after the word "liens" in the 3rd line the words "with or without a claim for delivery of possession or payment or both."

10 Edw. VII., c. 19, s. 24, amended.

49. Section 24 of *The Agricultural Societies Act* is hereby amended by adding the following subsection:

(2) If the Superintendent on or before the thirty-first day of December in any year receives proof by the joint affidavit of the President and Secretary or Secretary-Treasurer that rain or snow has fallen at the place of holding an exhibition and before three o'clock in the afternoon on any day of the holding of an exhibition, and upon his being satisfied that as a consequence the gate receipts *were* less than the average of the previous three years of holding the exhibition, the society shall be entitled to receive a grant equal to one half of the difference between the gate receipts of the current year and the average of the gate receipts of the previous three years, but the amount to be paid shall not exceed three hundred dollars, and the total amount so paid to all societies shall not exceed ten thousand dollars.

10 Edw. VII., c. 18, s. 3 (1), amended.

50. Subsection (1) of section 3 of *The Agricultural Associations Act* is amended by adding thereto the following words "The Ontario Plowmen's Association."

7 Edw. VII., c. 9, s. 21 amended.

51. Section 21 of *The Supplementary Revenue Act, 1907*, is amended by adding thereto the following subsection:

(6) ☞ When any such certificate has been or shall hereafter be registered, ☜ *The Registry Act* shall cease to apply to the land affected thereby, and the Registrar shall in his abstract index in red ink note *the* fact.

Rev. Stat. 235, s. 3 amended.

52.—(1) Section 3 of *The Municipal Waterworks Act* is amended by inserting after the word "necessary," in the fourth line, the following words: "or to appropriate."

Rev. Stat. c. 235, s. 4 amended.

(2) Section 4 of *The Municipal Waterworks Act* is amended by inserting after the word "waterworks," in the sixth line, the following words: "or of protecting the same or for the purpose of preserving the purity of the water supply, and may appropriate such parts of the said lands."

County of Essex and city of Windsor may make agreement for providing offices for Crown officers.

53. The Corporation of the County of Essex and the Corporation of the City of Windsor may enter into an agreement for providing and maintaining suitable accommodation in the City of Windsor for offices for the Crown Attorney, Local

Master and Local Registrar of the High Court, and chambers and offices for the County Judges and for other officers connected with the administration of justice in the county, and either of *such* Corporations may acquire by purchase, lease or otherwise in the City of Windsor the necessary land or land and buildings for such offices, and may erect buildings and furnish and maintain the same for all or any of such purposes, and may *pass by-laws for borrowing* money by the issue of debentures, payable within 30 years from the date of the issue thereof, to pay the cost of such land and buildings, without obtaining the assent of the ratepayers.

54. Section 8 of *The County Judges Act* is amended by adding thereto the following words : " unless otherwise provided by Order in Council." 9 Edw. VII., c. 29, s. 8, amended.

55. Subsection 1 of section 7 of *The Public Schools Act* is repealed and the following substituted therefor : The Public Schools Act amended.

7.—(1) The school year shall consist of two terms, the first of which shall begin on the 1st day of September, and shall end on the 22nd day of December, and the second of which shall begin on the 3rd day of January, and end on the 29th day of June.

Subsection 3 of section 32 of *The Public Schools Act* is amended by adding at the end thereof the words: "nor to the lands of non-residents, nor to the lands of residents in the section who have no children of school age."

Subsection 2 of section 52 of *The Public Schools Act* is amended by striking out the words " by the Council " in the last line of the subsection and inserting in lieu thereof the words "by the judge of the county or district Court of the county or district in which the school is situate, the inspector, and one other person to be named by them, whose direction or the direction of a majority of them as to the disposition of the assets shall be carried out by the council."

Subsection 1 of section 53 of *The Public Schools Act* is amended by inserting after the word "forenoon," in the 4th line, the words "or if the Board by resolution so directs at the hour of seven o'clock in the afternoon."

Section 54 of *The Public Schools Act* is amended by adding thereto the following subsection:

(5*a*) When the meeting is held at seven o'clock in the evening, the ratepayers may decide, by resolution, that the poll shall be conducted forthwith

or at ten o'clock on the following morning; and conducted in the evening the poll shall close after ten minutes has elapsed without any vote being recorded.

The Public Schools Act is amended by adding thereto the following section:

71*a*.—(1) The Board of Education or Board of Public School Trustees in any city may agree with the Board of Public School Trustees of a school section adjacent to the boundaries of the city for the erection, equipment and maintenance of a school in the school section for the joint accommodation of pupils from the school section, and from any designated area in the city contiguous to the section:

(2) The agreement shall fix the location of the school, the class of building to be erected, the accommodation to be provided and the proportion of the cost of erecting and maintaining the school to be contributed by the city and the rural school section respectively.

(3) The Board of Education or Board of Public School Trustees of the city shall include in its annual estimates an amount sufficient to pay its proportion of such cost, and the same shall be levied, collected and paid over by the corporation of the city as part of the rate levied for public school purposes in the city.

(4) The agreement shall not be binding or be acted upon until it has received the approval in writing of the Minister.

(5) If after the agreement has been entered into, the rural school section or the part thereof in which the school is situate is annexed to the city, the school site and buildings and property used in connection therewith shall vest in the Board of Education or Board of Public School Trustees of the City, and all payments made by such Board towards acquiring a site, erecting buildings, or making permanent improvements, shall be taken into consideration in fixing the amount to be paid by the Board for the school.

(6) The Minister may make regulations in the manner provided by *The Education Department Act,*

for the apportionment of the legislative and municipal grant in the case of schools to which this section applies, and may fix the proportion which shall be paid on account of any such school, out of the Legislative grant for rural and urban schools respectively, and the proportion of the municipal grants to rural schools which shall be paid on account of such school.

56. Subsection 2 of section 49 of *The High Schools Act* is amended by striking out all the words therein after the word "physician" at the end of the fourth line, and inserting in lieu thereof the words "or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery but the period of four weeks may in any case of sickness be allowed, and extended, at the pleasure of the Board without a certificate." The High Schools Act amended.

Subsection 2 of section 49 of *The High Schools Act* is amended by striking out all the words therein after the word "physician" in the fourth and fifth lines, and inserting in lieu thereof the words "or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery, but the period of four weeks may, in any case of sickness, be allowed and extended at the pleasure of the Board without a certificate."

The High Schools Act is amended by adding thereto the following section:

44*a* (1) Subject to the regulations the Minister may establish an examination for entrance to the Middle School of the High Schools for those who have completed the course prescribed for the Lower School of the High Schools, and such examinations shall be known as "The Senior High School Entrance Examination."

(2) After the establishment of such examinations the Entrance Examination provided for by section 44, shall be known as "The Junior High School Entrance Examination."

Clause (*b*) of subsection 1 of section 46 of *The High Schools Act* is amended by striking out the words "the inspectorate in which the high school is situate" in the second and third lines, and inserting in lieu thereof the words "an inspectorate in which a high school centre or attached county centre is situate."

The Boards of Education Act amended.

57.—(1) Subsection 3 of section 4 of *The Boards of Education Act* is repealed, and the following is substituted therefor:

(3) The Council shall, at the next succeeding municipal election, submit to a vote of the electors, the question: "Are you in favour of the formation of a Municipal Board of Education," and in case the question is answered in the affirmative by a majority of the electors voting thereon, the elective members of the Board shall be elected at the next ensuing municipal election, and the members to be appointed shall thereupon be appointed and the Board organized in accordance with the provisions of this Act.

(2) Subsections 1 and 2 of section 11 of *The Boards of Education Act* are repealed and the following substituted therefor:

(1) The Minister shall, from time to time, determine the number of inspectors to be appointed by a municipal board in any city or separated town.

The Boards of Education Act amended.

58.—(1) The clause lettered (*a*) in subsection 1 of section 21 of *The Boards of Education Act* is repealed, and the following substituted therefor:

(*a*) Make such modifications of the school courses prescribed for the high, industrial, technical, and arts schools under its jurisdiction as it deems expedient.

(2) The clause lettered (*c*) in the said subsection is amended by inserting after the word "technical" in the second line, the words "industrial art."

The Truancy Act amended.

59. Section 7 of *The Truancy Act* is amended by inserting therein the following subsection:

(5*a*) The Board of School Trustees of a school section in territory without municipal organization may appoint a truant officer for the section.

No. 208.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

The Statute Law Amendment Act, 1911.

1st Reading, 14th day of March, 1911.

(*Reprinted as amended in Committee of the Whole House.*)

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 209. 1911.

BILL

An Act to amend the Power Commission Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Power Commission Amendment Act, 1911.* Short title.

2. In this Act

(*a*) "Highway" shall include street, lane, road, square or other public passage, and "Highways" shall have a meaning corresponding to that of highway. Interpretation "Highway."

(*b*) "The Commission" shall mean The Hydro-Electric Power Commission of Ontario. "The Commission."

(*c*) "Works" shall include wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus. "Works."

(*d*) "Corporation" shall mean and include a municipal corporation or any Board or Commissioners, incorpoated or unincorporated, acting on behalf of a municipal corporation or of the inhabitants of a municipality, and an incorporated company. "Corporation."

3.—(1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of highway, in, under or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first mentioned corporation and after notice to the other and hearing any objections which it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve of the same; Approval of distributing works of the Commission.

and all works which such first mentioned corporation has constructed or may thereafter construct, the location and mode of construction of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, except that provided for by section 4, any statute or law to the contrary notwithstanding.

Approval upon conditions.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to such other corporation and its servants and workmen, in maintaining, repairing and operating them.

Insulation.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between the wires of two corporations, or from any other cause, that insulators or other appliances should be affixed to the poles of either corporation, or that the wires of either of them should be attached to such insulators or other appliances, the Commission may authorize or direct such insulators or other appliances to be so affixed, and such wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger; and anything done by either corporation pursuant to such authority or direction shall be deemed to be lawfully done.

Work to be done at expense of initiating corporation.

(4) Anything authorized or directed to be done under the provisions of subsection 3 shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation, and under such supervision as the Commission may direct.

Powers exercisable from time to time.

(5) The powers conferred by this section may be exercised from time to time as occasion may require.

Application to works already constructed.

(6) The provisions of this section shall apply to works of a corporation constructed before the passing of this Act.

Claims for damages by one corporation against another.

4.—(1) If any damage or injury is done to the works of a corporation or any of them, or is occasioned in the maintenance or operation of them by reason of the works of another corporation, or any of them, being constructed or operated in closer proximity to the works of such first mentioned corporation than, but for the provisions of section 3, would have been lawful, no action shall lie in respect thereof, but the corporation doing such damage or injury shall make due

compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of the compensation, shall be determined by arbitration, and the provisions of *The Consolidated Municipal Act, 1903*, with respect to arbitration in the case of claims against municipal corporations shall apply *mutatis mutandis* to the procedure upon an arbitration under this section.

Notice of claim.

(2) The corporation claiming damages shall, within one month after the expiration of any calendar year, in which it claims that any such damage or injury has been so done or occasioned, give notice in writing to the other corporation of its claim and of the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that year shall be forever barred.

Approval of Commission may be pleaded.

5. Where the location and mode of construction of any works of a corporation which have been constructed before the passing of this Act are approved by the Commission under the provisions of section 3, the approval of the Commission may be set up in and shall be available as a defence to any action now pending to the same extent and with the same effect as if such action had been commenced after the passing of this Act, and the giving of such approval; and where it is so set up, the plaintiff shall be entitled to discontinue the action, and, if he does so, to be paid his costs of it by the defendant.

Exclusive jurisdiction of Commission.

6. The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is, by this Act, conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any Court.

Jurisdiction of courts ousted.

7. No Court shall have authority to grant, or shall grant an injunction, or other order, restraining, either temporarily or otherwise, the construction, maintenance or operation of any works, the location and mode of construction of which have been approved by The Commission if the same are being, or have been, constructed in the place and according to the mode which have been so approved.

No. 209.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Power Commission Act.

1st Reading, 15th day of March, 1911.

Mr. McNaught.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 210. 1911.

BILL

An Act respecting Little Nipissing Silver Cobalt Mining Company, Limited.

Preamble.

WHEREAS Little Nipissing Silver Cobalt Mining Company, Limited, a Company duly incorporated under the laws of the Province of Ontario, has an authorized capital of one million five hundred thousand dollars ($1,500,000), divided into one million five hundred thousand (1,500,000) shares of the par value of one dollar ($1.00) each; and whereas the amount of such capital stock authorized by the Shareholders or Directors to be issued is one million two hundred and fifty thousand dollars ($1,250,000); and whereas at a Special General Meeting of the Shareholders of the said Company, held on the 24th day of February, 1911, a Report of the auditors of the Company was presented to the Shareholders, from which it appeared that certificates in excess of the said amount of one million two hundred and fifty thousand ($1,250,000) dollars had been issued without any legal authority, to the extent of more than six hundred and forty-four thousand two hundred and forty-four dollars ($644,244), and it further appeared that owing to the incomplete and mutilated condition of the stock books of the Company, it was impossible to determine the exact amount of such overissue, and also impossible to distinguish between certificates of stock issued with authority and those issued without authority; and whereas it is essential in order that the business of the Company may be carried on and continued, that the capital stock of the Company should be placed upon a legal basis, and it is desirable that this should be done without exonerating in any respect from liability those responsible for or in connection with the unauthorized issue of stock; and whereas at the said meeting of Shareholders a resolution was unanimously passed instructing the Directors to forthwith apply to the Legislature of the Province of Ontario for an Act increasing the capital stock of the Company to three million dollars ($3,000,000), and providing that present holders of certificates should, within ninety days (or such other time as the Legislature may fix) after

the last publication of such notice or advertisement as may be required by the Legislature, surrender the certificates now held by them and receive in exchange therefor new certificates, and that certificates not surrendered within such period shall cease to entitle the holder to any rights as against the Company, and that such stock as may not be required for the purpose of redeeming outstanding certificates be reserved as Treasury Stock, and be disposed of by the Directors for the purpose of furnishing capital for the operation of the mine, and that the Directors be specially instructed to provide in the said Act that nothing therein contained or done thereunder should in any way release or exonerate from responsibility or liability any present or former Officer or Director of the Company or any other parties whatsoever from any liability to the Company which they would have been under but for the passing of the said resolution and of such proposed Act; and whereas the said Little Nipissing Silver Cobalt Mining Company, Limited, has by its Petition prayed that an Act may be passed in accordance with the terms of the resolution of the shareholders above set forth; and whereas it is expedient to grant the prayer of the said Petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Increase of capital stock.

1. The capital stock of the said Little Nipissing Silver Cobalt Mining Company, Limited, be and the same is hereby increased to three million dollars ($3,000,000), divided into three million (3,000,000) shares of the par value of one dollar ($1.00) each.

Certificates of stock to be surrendered to secretary within 90 days.

2. All holders of certificates of stock in Little Nipissing Silver Cobalt Mining Company, Limited, shall, within ninety days after the last publication of the advertisement hereinafter directed, deliver or transmit to the Secretary of the Company the certificates of stock so held by them, and shall thereupon become entitled to receive from the Company new certificates for the like amount of stock.

Non-surrender of certificates, effect of.

3. Certificates of stock not surrendered within the said period of ninety days, or such further time as the Lieutenant-Governor may order, shall cease to entitle the holder thereof to any interest in or rights against the Company.

Publication of notice.

4. The Company shall publish a notice setting forth the effect of the provisions of this Act with reference to the surrender of stock, three times in a daily newspaper published

in each of the following places, namely: Toronto, Montreal, New York, and Chicago, with an interval of two weeks between each publication in each such newspaper.

Issue of stock at discount.

5. The balance of the shares of the capital stock not required to redeem the outstanding stock certificates may be issued by the Directors at such discount as they shall deem proper.

Officers of company not released from liability.

6. Nothing herein contained or done hereunder shall in any way release or exonerate from responsibility or liability any present or former Officer or Director of the Company or any other person whatsoever from any liability which they would have been under but for the passing of this Act.

Date when Act to take effect.

7. This Act shall not come into force until a day to be named by the Lieutenant-Governor by his proclamation in that behalf.

No. 210.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act respecting Little Nipissing Silver Cobalt Mining Company, Limited.

1st Reading, 17th day of March, 1911.

(*Private Bill.*)

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 211. 1911.

BILL

An Act to amend The Ontario Railway and Municipal Board Amendment Act, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The Ontario Railway and Municipal Board Amendment Act, 1910, is amended by adding thereto the following sections: 10 Edw. VII., c. 83, amended.

"11. All tracks, switches, additional lines and extensions of existing lines which are, have been or shall be hereafter constructed and operated by a street railway company in pursuance of an order of the Board, shall nevertheless be deemed to have been constructed under the authority, and shall be subject to all the provisions of the Agreement between the company and the corporation of the municipality, or the By-law of the council thereof, by which authority to construct the railway was conferred upon the company. Tracks, switches, etc., to be deemed to be built under agreement with company.

"12. It was not intended by the said Act to confer, and it did not and does not confer upon the Board power or authority to require or to permit a railway company, or a street railway company, without the consent of the corporation of the municipality, to construct or lay down within the municipality more tracks or lines than under its agreement with the corporation or the By-law of the council of the corporation of the municipality by which authority to construct the railway upon any such street or highway or part of a street or highway was conferred it has authority to construct or lay down, but the agreement or By-law shall govern as to the number and location of the tracks and the streets or highways upon which the railway may be constructed." Board may not permit company to construct lines not contemplated in agreement.

No. 211.

3rd Session, 12th Legislature,
1 George V., 1911.

BILL.

An Act to amend The Ontario and Municipal Board Amendment Act, 1910.

1st Reading, 20th day of March, 1911.

Mr. McNAUGHT.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 212. 1911.

BILL

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending on the 31st day of October, 1911, and for the public service of the financial year ending the 31st day of October, 1912.

Most Gracious Sovereign:

Preamble. WHEREAS it appears by messages from His Honour John Morison Gibson, Lieutenant-Governor of the Province of Ontario, and the estimates accompanying the same, that the sums hereinafter mentioned in the schedules to this Act are required to defray certain expenses of the public service of this Province, not otherwise provided for, for the financial year ending on the 31st day of October, 1911, and for the financial year ending the 31st day of October, 1912, and for other purposes connected with the public service; May it therefore please Your Majesty that it may be enacted, and it is hereby enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

$3,361,555.16 granted for year ending 31st October, 1911. **1.** From and out of the Consolidated Revenue Fund of this Province, there may be paid and applied a sum not exceeding in the whole three million three hundred and sixty-one thousand five hundred and fifty-five dollars and sixteen cents, towards defraying the several charges and expenses of the public service of this Province not otherwise provided for, from the first day of November, 1910, to the thirty-first day of October, 1911, as set forth in Schedule "A" to this Act.

$8,090,911.66 granted for fiscal year 1911-12. **2.** From and out of the Consolidated Revenue Fund of this Province, there may be paid and applied a sum not exceeding in the whole eight million and ninety thousand nine hundred and eleven dollars and sixty-six cents, towards defraying the several charges and expenses of the public ser-

vice of this Province, not otherwise provided for, from the first day of November, 1911, to the thirty-first day of October, 1912, as set forth in Schedule "B" to this Act.

Accounts to be laid before Assembly.

3. Accounts in detail of all moneys received on account of this Province during the said financial year 1910-1911, and of all expenditures under Schedule "A" of this Act, shall be laid before the Legislative Assembly at its first sitting after the completion of the said period; and accounts in detail of all moneys received on account of this Province during the financial year 1911-1912 and of all expenditures under Schedule "B" of this Act, shall be laid before the Legislative Assembly at the first sitting after the completion of the said financial year.

Appropriations for 1910-1911 unexpended, to lapse.

4. Any part of the money under Schedule "A" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1911, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or at such subsequent date as may be fixed by the Lieutenant-Governor in Council under the provisions of *The Audit Act,* as amended by the Act passed at the last session intituled *An Act respecting the Fiscal Year,* shall on the first day of December following lapse and be written off.

Appropriations for 1911-1912 unexpended, to lapse.

5. Any part of the money under Schedule "B" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1912, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or after a date fixed by the Lieutenant-Governor in Council as mentioned in section 4 shall on the first day of December following lapse and be written off.

Accounting for expenditure.

6. The due application of all moneys expended under this Act out of the Consolidated Revenue shall be accounted for to His Majesty.

SCHEDULE "A."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and eleven, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—		
Lieutenant-Governor's Office ...	$100 00	
Office of the Prime Minister and President of the Council	100 00	
Attorney-General's Department..	1,489 50	
Education Department	1,000 00	
Lands, Forests and Mines Department	7,136 92	
Public Works Department	5,325 00	
Treasury Department	1,800 00	
Auditor's Office	1,900 00	
Provincial Secretary's Department	13,033 00	
Department of Agriculture	4,452 17	
Miscellaneous	700 00	
		$37,036 59

LEGISLATION.

To defray expenses of Legislation	$43,400 00

ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice	$43,900 33

EDUCATION.

To defray expenses of:—		
Public and Separate School Education	$70,369 88	
Normal and Model Schools, Toronto	1,486 33	
Normal and Model Schools, Ottawa	830 11	
Normal and Model Schools, London	779 36	
Normal School, Hamilton	350 00	
Normal School, Peterborough ...	850 00	
Normal School, Stratford	510 05	
Normal School, North Bay	305 66	
High Schools and Collegiate Institutes	5,400 00	
Departmental Library and Museum	1,188 65	
Public Libraries, Art Schools, Literary and Scientific	3,235 89	

Technical Education	$39,900 00	
Provincial University	1,072 08	
Maintenance Education Department and Miscellaneous	750 00	
Institution for Deaf and Dumb, Belleville	2,220 00	
Blind Institute, Brantford	650 00	
		$129,898 01

PUBLIC INSTITUTIONS, MAINTENANCE.

To defray expenses of:—

Hospital for Insane, Brockville.	$3,917 00	
Hospital for Insane, Cobourg ..	2,110 00	
Hospital for Insane, Hamilton..	4,780 00	
Hospital for Insane, Kingston..	1,520 00	
Hospital for Insane, London ...	4,190 00	
Hospital for Insane, Mimico ...	5,820 00	
Hospital for Feeble Minded, Orillia	9,235 00	
Hospital for Insane, Penetanguishene	1,280 00	
Hospital for Insane, Toronto ...	5,030 00	
Hospital for Epileptics, Woodstock	1,620 00	
Central Prison, Toronto	450 00	
Central Prison Industries	5,150 00	
Mercer Reformatory, Toronto ..	3,350 00	
		$48,452 00

AGRICULTURE.

To defray expenses of a grant in aid of Agriculture $67,266 29

COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Immigration $32,027 75

STATIONARY ENGINEERS.

To defray expenses of Stationary Engineers.. $64 50

HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hospitals and Charities $39,300 00

MAINTENANCE AND REPAIRS OF GOVERNMENT AND DEPARTMENTAL BUILDINGS.

Government House	$5,278 60	
Parliament and Departmental Buildings	19,159 25	
		$24,437 85

PUBLIC BUILDINGS.

Government House	$50,000 00
Parliament and Departmental Buildings	492,440 00
Osgoode Hall	39,486 81
Public Institutions:—	
Hospital for Insane, Brockville..	48,140 00
Hospital for Insane, Cobourg ..	1,800 00
Hospital for Insane, Hamilton..	24,500 00
Hospital for Insane, Kingston..	16,800 00
Hospital for Insane, London ...	38,500 00
Hospital for Insane, Mimico ..	17,000 00
Hospital for Feeble Minded, Orillia	41,600 00
Hospital for Insane, Penetanguishene	8,200 00
Hospital for Insane, Toronto ...	7,900 00
Hospital for Epileptics, Woodstock	3,100 00
Central Prison, Toronto	102,100 00
Mercer Reformatory, Toronto ..	4,400 00
Educational:—	
Normal and Model Schools, Toronto	8,155 31
Normal and Model School, Ottawa	2,465 00
Normal School, London	600 00
Normal School, Hamilton	260 00
Normal School, Peterborough...	1,860 00
Normal School, Stratford	945 00
Normal School, North Bay	2,410 00
Deaf and Dumb Institute, Belleville	19,770 00
Institution for the Blind, Brantford	5,628 69
Ontario Agricultural College....	14,570 00
Horticultural Experimental Station	4,347 21
Eastern Dairy School	1,602 15
Ontario Veterinary College	25,300 00

Colonization and Immigration Buildings	$25,116 50	
Children's Shelter	40 00	
Districts:—		
Muskoka	865 60	
Parry Sound	122 20	
Sault Ste. Marie	1,400 00	
Thunder Bay	2,773 83	
Rainy River	1,772 00	
Nipissing	4,434 78	
Manitoulin	150 00	
Sudbury	1,921 26	
Kenora	16,870 06	
Total Public Buildings		$1,039,346 40

PUBLIC WORKS.

To defray expenses of Public Works	$176,665 00

COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Repairs	$367,214 02

CHARGES ON CROWN LANDS.

To defray expenses on account of Crown Lands	$100,239 39

REFUNDS.

Lands, Forests and Mines	$10,487 95	
Land Improvement Fund	1,922 31	
Succession Duty	15,000 00	
		$27,410 26

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure	$1,184,896 77
Total Estimates for Expenditure of 1910-1911	$3,361,555 16

SCHEDULE "B."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and twelve, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—

Lieutenant-Governor's Office ...	$4,750 00	
Office of the Prime Minister and President of the Council	7,950 00	
Attorney-General's Department	66,330 00	
Education Department	30,960 00	
Lands, Forests and Mines Department	144,800 00	
Public Works Department	71,985 00	
Treasurer's Department	35,554 00	
Auditor's Office	17,180 00	
Provincial Secretary's Department	183,425 00	
Department of Agriculture ...	75,110 00	
Factory Inspection Branch ...	23,090 00	
Stationary Engineers	6,100 00	
Miscellaneous	18,550 00	
		$685,784 00

LEGISLATION.

To defray expenses of Legislation $284,450 00

ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice $730,191 66

EDUCATION.

To defray expenses of:—

Public and Separate School Education	$1,045,000 00	
Normal and Model Schools, Toronto	46,842 00	
Normal and Model Schools, Ottawa	45,350 00	
Normal School, London	25,765 00	
Normal School, Hamilton	21,765 00	
Normal School, Peterborough.	22,235 00	
Normal School, Stratford	21,545 00	
Normal School, North Bay..	25,520 00	
High Schools and Collegiate Institutes	159,100 00	
Departmental Library and Museum	19,378 00	
Public Libraries, Art Schools, Literary and Scientific	64,450 00	
Technical Education	96,300 00	

Superannuated Public and High School Teachers	$62,650 00	
Provincial University and Mining Schools	42,200 00	
Maintenance Education Department and Miscellaneous	32,274 00	
Institution for Deaf and Dumb, Belleville	62,584 00	
Blind Institute, Brantford ...	43,900 00	
		$1,836,858 00

PUBLIC INSTITUTIONS' MAINTENANCE.

To defray expenses of:—

Hospital for Insane, Brockville	$116,927 00	
Hospital for Insane, Cobourg.	30,110 00	
Hospital for Insane, Hamilton	175,907 00	
Hospital for Insane, Kingston	120,713 00	
Hospital for Insane, London.	168,190 00	
Hospital for Insane, Mimico..	108,370 00	
Hospital for Feeble Minded, Orillia	97,702 00	
Hospital for Insane, Penetanguishene	70,045 00	
Hospital for Insane, Toronto..	160,952 00	
Hospital for Epileptics, Woodstock	40,356 00	
Central Prison, Toronto	75,490 00	
Central Prison Industries	73,620 00	
Mercer Reformatory, Toronto.	34,275 00	
		$1,272,657 00

AGRICULTURE.

To defray expenses of a grant in aid of Agriculture. $647,701 00

COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Immigration $100,200 00

HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hospitals and Charities $373,000 00

MAINTENANCE AND REPAIRS OF GOVERNMENT AND DEPARTMENTAL BUILDINGS.

Government House	$20,000 00	
Parliament and Departmental Buildings	111,850 00	
		$131,850 00

PUBLIC BUILDINGS.

Government House	$200,000 00	
Parliament Buildings	190,000 00	
Osgoode Hall	16,500 00	
Public Institutions	128,600 00	
Educational	9,300 00	
Agriculture	55,800 00	
Districts	38,000 00	
		$638,200 00

PUBLIC WORKS.

To defray expenses of Public Works	$70,200 00

COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Repairs	$133,000 00

CHARGES ON CROWN LANDS.

To defray expenses on account of Crown Lands	$610,550 00

REFUNDS.

Education	$1,000 00	
Lands, Forests and Mines ...	17,000 00	
Miscellaneous	12,000 00	
Succession Duty	36,000 00	
		$66,000 00

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure	$510,270 00
Total Estimates for Expenditure of 1911-1912	$8,090,911 66